Indiana Register

Volume 26, Number 1
Pages 1-320

October 1, 2002

Retain this issue as a supplement to the Indiana Administrative Code (See p. 2)

The Indiana Register is on the Internet at: www.in.gov/legislative/

Published By

Indiana Legislative Services Agency

Office of Code Revision
317/232-9557

recycled paper

This issue contains documents officially filed through 4:45 p.m., September 10, 2002

IN THIS ISSUE

INDIANA REGISTER

(ISSN 0193-1520)

is published monthly by the Indiana Legislative Council, Room 302 State House, Indianapolis, Indiana 46204-2789. An order form is on the back of this issue. Subscription price is $60 for volume 26, in advance. PERIODICALS postage paid at Indianapolis, Indiana.

Postmaster: Send change of address to:

Indiana Register
Legislative Services Agency
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as executive orders and attorney general's opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official annual publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order.

The Indiana Register acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Indiana Administrative Code. With few exceptions, an agency may not adopt a rule, i.e., a policy statement having the force of law, without publishing a substantially similar proposed version in the Indiana Register. Although a rule becomes effective without publication in the Indiana Register, an agency must file an adopted and approved rule with the Indiana Legislative Council. The Council publishes these final rules in the Indiana Register.

RETENTION SCHEDULE

A person must consult the following publications to find the current rules of state agencies:

(1) Indiana Administrative Code (2001).
(2) The 2002 Supplement.
(3) Volumes 25 and 26 of the Indiana Register.

The 1996 Edition of the Indiana Administrative Code, the 2000 Cumulative Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

JUDICIAL NOTICE AND CITATION FORM

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule's validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as "Title 312 of the Indiana Administrative Code," cite the entire current contents of the third article in title 312 as "312 IAC 3," cite the entire current contents of the fourth rule in article three as "312 IAC 3-4," and cite part or all of the current contents of the second section in rule four as "312 IAC 3-4-2." IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and ~~this style type~~ is used to indicate that substantive text is being eliminated by amendment from a rule. ~~This style type~~ is replaced by a single large "X" to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general's opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

FILING AND PUBLISHING SCHEDULE

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month's Indiana Register according to the schedule below:

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
August 9, 2002	September 1, 2002	March 10, 2003	April 1, 2003
September 10, 2002	October 1, 2002	April 10, 2003	May 1, 2003
October 10, 2002	November 1, 2002	May 9, 2003	June 1, 2003
November 12, 2002	December 1, 2002	June 10, 2003	July 1, 2003
December 10, 2002	January 1, 2003	July 10, 2003	August 1, 2003
January 10, 2003	February 1, 2003	August 11, 2003	September 1, 2003
February 10, 2003	March 1, 2003	September 10, 2003	October 1, 2003

Documents will be accepted for filing on any business day from 8:00 a.m. to 4:45 p.m.

AROC NOTICES: Under IC 2-5-18-4, the Administrative Rules Oversight Committee is established to oversee the rules of any agency not listed in IC 4-21.5-2-4. As a result, certain notices to the AROC are required and are printed in the Indiana Register.

CORRECTIONS: IC 4-22-2-38 authorizes an agency to correct typographical, clerical, or spelling errors in a final rule without initiating a new rulemaking procedure. Correction notices are printed on errata pages in the Indiana Register.

EFFECTIVE DATE: IC 4-22-2-36 provides that, unless a later date is specified in the rule, a rule becomes effective thirty (30) days after filing with the Secretary of State.

EMERGENCY RULES: IC 4-22-2-37.1 provides summary rulemaking procedures for certain specified categories of rules.

INCORPORATION BY REFERENCE: IC 4-22-2-21 requires that a copy of matters that are incorporated by reference into a rule must be filed with the Attorney General, the Governor, and the Secretary of State along with the text of the incorporating final rule.

NONRULE POLICY DOCUMENTS: IC 4-22-7-7 requires that any nonrule document that interprets, supplements, or implements a statute and that the issuing agency may use in conducting its external affairs must be filed with the Legislative Services Agency and published in the Indiana Register.

NOTICE OF INTENT TO ADOPT A RULE: IC 4-22-2-23 requires an agency to publish a Notice of Intent to Adopt a Rule at least thirty (30) days before publication of the proposed rule.

PROMULGATION PERIOD: In order to be effective, the final version of an adopted rule must be approved by the Attorney General and the Governor within one (1) year after the date that the notice of intent is published. The final rule must then be filed with the Secretary of State.

PUBLIC HEARINGS: IC 4-22-2-24 requires that the public hearing on a proposed rule be scheduled at least twenty-one (21) days after a notice of the hearing is published in the Indiana Register and in a newspaper of general circulation in Marion County.

RULES READOPTION: IC 4-22-2.5 provides that a rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date.

State Agencies

ALPHABETICAL LIST

†Agency's rules are entirely repealed, transferred, or otherwise voided.

NUMERICAL LIST

TITLE NUMBER

GENERAL GOVERNMENT

10 Office of Attorney General for the State
11 Consumer Protection Division of the Office of the Attorney General
†15 State Election Board
18 Indiana Election Commission
20 State Board of Accounts
25 Indiana Department of Administration
†30 State Personnel Board
31 State Personnel Department
33 State Employees' Appeals Commission
35 Board of Trustees of the Public Employees' Retirement Fund
40 State Ethics Commission
45 Department of State Revenue
50 Department of Local Government Finance
52 Indiana Board of Tax Review
55 Department of Commerce
58 Enterprise Zone Board
60 Oversight Committee on Public Records
62 Office of the Public Access Counselor
65 State Lottery Commission
68 Indiana Gaming Commission
†70 Indiana Horse Racing Commission
71 Indiana Horse Racing Commission
75 Secretary of State
80 State Fair Commission
85 Budget Agency

TRANSPORTATION AND PUBLIC UTILITIES

†100 Department of Transportation
105 Indiana Department of Transportation
†110 Aeronautics Commission of Indiana
†120 Department of Highways
130 Indiana Port Commission
135 Indiana Transportation Finance Authority
140 Bureau of Motor Vehicles
145 Reciprocity Commission of Indiana
†150 Office of Traffic Safety
†160 Department of Vehicle Inspection
170 Indiana Utility Regulatory Commission

CORRECTIONS, POLICE, AND MILITARY

205 Indiana Criminal Justice Institute
207 Coroners Training Board
210 Department of Correction
220 Parole Board
†230 Indiana Clemency Commission
240 State Police Department
250 Law Enforcement Training Board
260 State Department of Toxicology
270 Adjutant General
280 Public Safety Training Institute
290 State Disaster Relief Fund

NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

305 Indiana Board of Licensure for Professional Geologists
310 Department of Natural Resources
†311 State Soil and Water Conservation Committee
312 Natural Resources Commission
315 Office of Environmental Adjudication
†320 Indiana Environmental Management Board
†320.1 Solid Waste Management Board
323 Indiana Hazardous Waste Facility Site Approval Authority
†325 Air Pollution Control Board of the State of Indiana
†325.1 Air Pollution Control Board
326 Air Pollution Control Board
327 Water Pollution Control Board
328 Underground Storage Tank Financial Assurance Board
329 Solid Waste Management Board
†330 Stream Pollution Control Board of the State of Indiana
†330.1 Water Pollution Control Board
†340 Commissioner of Agriculture
341 Indiana Standardbred Board of Regulations
345 Indiana State Board of Animal Health
350 Agricultural Experiment Station
355 State Chemist of the State of Indiana
357 Indiana Pesticide Review Board
360 State Seed Commissioner
365 Creamery Examining Board
370 State Egg Board
375 Indiana Organic Peer Review Panel

HUMAN SERVICES

405 Office of the Secretary of Family and Social Services
407 Office of the Children's Health Insurance Program
410 Indiana State Department of Health
412 Indiana Health Facilities Council
415 Commission on Forensic Sciences
430 Developmental Disabilities Residential Facilities Council
431 Community Residential Facilities Council
440 Division of Mental Health and Addiction
†450 Department on Aging and Community Services
460 Division of Disability, Aging, and Rehabilitative Services
470 Division of Family and Children
480 Violent Crime Compensation Division
490 Interdepartmental Board for the Coordination of Human Service Programs

TITLE NUMBER

EDUCATION AND LIBRARIES

†510 Commission on General Education
511 Indiana State Board of Education
515 Professional Standards Board
†520 Commission on Textbook Adoptions
†530 Commission on Teacher Training and Licensing
540 Indiana Education Savings Authority
550 Board of Trustees of the Indiana State Teachers' Retirement Fund
560 Indiana Education Employment Relations Board
570 Indiana Commission on Proprietary Education
†572 Indiana Commission on Vocational and Technical Education
575 State School Bus Committee
580 Indiana Medical and Nursing Distribution Loan Fund Board of Trustees
585 State Student Assistance Commission
590 Indiana Library and Historical Board
595 Library Certification Board

LABOR AND INDUSTRIAL SAFETY

610 Department of Labor
615 Board of Safety Review
620 Occupational Safety Standards Commission
†630 Industrial Board of Indiana
631 Worker's Compensation Board of Indiana
†635 Wage Adjustment Board
†640 Indiana Unemployment Insurance Board
†645 Department of Employment and Training Services
646 Department of Workforce Development
650 State Fire Marshal
655 Board of Firefighting Personnel Standards and Education
†660 Administrative Building Council of Indiana
†670 Elevator Safety Board
675 Fire Prevention and Building Safety Commission
680 Boiler and Pressure Vessel Rules Board
685 Regulated Amusement Device Safety Board

BUSINESS, FINANCE, AND INSURANCE

710 Securities Division
750 Department of Financial Institutions
760 Department of Insurance
762 Indiana Political Subdivision Risk Management Commission
770 Indiana Agricultural Development Corporation

OCCUPATIONS AND PROFESSIONS

804 Board of Registration for Architects and Landscape Architects
808 State Boxing Commission
812 Indiana Auctioneer Commission
816 Board of Barber Examiners
820 State Board of Cosmetology Examiners
824 Indiana Grain Buyers and Warehouse Licensing Agency
825 Indiana Grain Indemnity Corporation
828 State Board of Dentistry
830 Indiana Dietitians Certification Board
832 State Board of Funeral and Cemetery Service
836 Indiana Emergency Medical Services Commission
839 Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board
840 Indiana State Board of Health Facility Administrators
844 Medical Licensing Board of Indiana
845 Board of Podiatric Medicine
846 Board of Chiropractic Examiners
848 Indiana State Board of Nursing
852 Indiana Optometry Board
856 Indiana Board of Pharmacy
857 Indiana Optometric Legend Drug Prescription Advisory Committee
858 Controlled Substances Advisory Committee
860 Indiana Plumbing Commission
862 Private Detectives Licensing Board
864 State Board of Registration for Professional Engineers
865 State Board of Registration for Land Surveyors
868 State Psychology Board
872 Indiana Board of Accountancy
876 Indiana Real Estate Commission
880 Speech-Language Pathology and Audiology Board
884 Board of Television and Radio Service Examiners
888 Indiana Board of Veterinary Medical Examiners
†892 Indiana State Board of Examiners in Watch Repairing
896 Board of Environmental Health Specialists
898 Indiana Athletic Trainers Board

MISCELLANEOUS

905 Alcohol and Tobacco Commission
910 Civil Rights Commission
915 Veterans' Affairs Commission
920 Indiana War Memorials Commission
925 Meridian Street Preservation Commission
930 Indiana Housing Finance Authority

†Agency's rules are entirely repealed, transferred, or otherwise voided.

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

LSA Document #02-110(F)

DIGEST

Amends 11 IAC 2-6-1 concerning the fees charged for the telephone privacy list. Amends 11 IAC 2-6-5 to clarify the information contained in the telephone privacy list. Adds 11 IAC 2-6-6 to prohibit unauthorized duplication or dissemination of the telephone privacy list. Effective 30 days after filing with the secretary of state.

11 IAC 2-6-1
11 IAC 2-6-5
11 IAC 2-6-6

SECTION 1. 11 IAC 2-6-1, AS ADDED AT 25 IR 1857, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

11 IAC 2-6-1 Fee for obtaining telephone privacy list
Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1

Sec. 1. **(a)** The fee for obtaining the telephone privacy list **on CD-ROM or via download from the telephone privacy Web site** is ~~three~~ **seven** hundred **fifty** dollars ~~($300).~~ **($750).** The person paying this fee is entitled to four (4) **consecutive** quarterly publications of the telephone privacy list.

(b) The fee for obtaining the telephone privacy list in printed hard copy format is the fee established under subsection (a), plus fifteen cents ($0.15) per page. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-1; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1857; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6)*

SECTION 2. 11 IAC 2-6-5, AS ADDED AT 25 IR 1858, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

11 IAC 2-6-5 Information contained in published telephone privacy list
Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2; IC 24-4.7-4

Sec. 5. The telephone privacy list published by the division, ~~shall,~~ regardless of its form, **shall not** contain ~~only~~ **names, addresses, or other identifying information beyond** the residential telephone numbers that telephone solicitors are prohibited from calling under IC 24-4.7-4. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-5; filed Jan 18, 2002, 5:00 p.m.: 25 IR 1858; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6)*

SECTION 3. 11 IAC 2-6, AS ADDED AT 25 IR 1858, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

11 IAC 2-6-6 Unauthorized duplication or dissemination of telephone privacy list prohibited
Authority: IC 4-6-9-8; IC 24-4.7-3-7
Affected: IC 24-4.7-3-1; IC 24-4.7-3-2

Sec. 6. A person obtaining a copy of the telephone privacy list shall not disseminate, duplicate, distribute, transmit, or photocopy the list to third parties without the prior written consent of the division. For the purpose of this section, a subsidiary in which a person has a majority ownership interest shall not be considered a third party. *(Consumer Protection Division of the Office of the Attorney General; 11 IAC 2-6-6; filed Sep 3, 2002, 3:30 p.m.: 26 IR 6)*

LSA Document #02-110(F)
Notice of Intent Published: 25 IR 2544
Proposed Rule Published: July 1, 2002; 25 IR 3213
Hearing Held: July 30, 2002
Approved by Attorney General: August 20, 2002
Approved by Governor: September 3, 2002
Filed with Secretary of State: September 3, 2002, 3:30 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-305(F)

DIGEST

Amends 50 IAC 2.3-1-1 to extend the date that county assessors may select and publish a specific set of guidelines to be used for the assessment of real property for the 2002 general reassessment. Effective 30 days after filing with the secretary of state.

50 IAC 2.3-1-1

SECTION 1. 50 IAC 2.3-1-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 2.3-1-1 Applicability, provisions, and procedures
Authority: IC 4-22-2-21; IC 6-1.1-4-26; IC 6-1.1-31; IC 6-1.1-35-1
Affected: IC 5-3-1; IC 6-1.1-4; IC 6-1.1-15; IC 6-1.1-31-5; IC 6-1.1-31-6

Sec. 1. (a) This article applies to the assessment of all real property under IC 6-1.1-4.

(b) All real property assessed after February 28, 2002, must be assessed in accordance with the 2002 Real Property Assessment Manual, incorporated by reference under section 2 of this rule.

(c) In addition to the requirements established in the 2002 Real Property Assessment Manual and to fully address the requirements of IC 6-1.1-31-6, the county assessor must select a set of more specific guidelines to be applied by assessing officials in connection with the assessment of real property in their county. These guidelines must:

(1) contain provisions for the determination of true tax value following the instructions in the section of the 2002 Real Property Assessment Manual entitled "Approval of Mass Appraisal Methods"; and

(2) be approved by the state board of tax commissioners.

The state board of tax commissioners has approved the provisions contained in the "Real Property Assessment Guidelines for 2002–Version 'A'" dated May 10, 2001, incorporated by reference under section 2 of this rule. Other real property assessment guidelines proposed by a county must be submitted to, and approved by, the state board of tax commissioners before they may be used for the assessment of real property in that county.

(d) The purpose of this rule is to accurately determine "True Tax Value" as defined in the 2002 Real Property Assessment Manual, not to mandate that any specific assessment method be followed. The intent of the state board of tax commissioners is that any individual assessment is to be deemed accurate if it is a reasonable measure of "True Tax Value" as defined in the 2002 Real Property Assessment Manual. No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of "True Tax Value", and failure to comply with the Real Property Assessment Guidelines for 2002–Version 'A' or other guidelines approved under subsection (c) does not in itself show that the assessment is not a reasonable measure of "True Tax Value".

(e) After July 1, 2001, and before ~~August~~ **November** 1, 2001, the county assessor shall make the selection required under subsection (c). The method selected under subsection (c) must be used by all the assessing officials within the county, will serve as the appropriate method for calculating an assessment that is appealed under IC 6-1.1-15, and govern throughout the effective period of the 2002 reassessment. No method, other than the method selected by the county assessor under subsection (c), may be used for the assessment of real property under IC 6-1.1-4 within the county. Before ~~August~~ **November** 1, 2001, the county assessor shall publish the selected method in accordance with IC 5-3-1 and notify the state board of tax commissioners, in writing, of the selection.

(f) If the county assessor elects, pursuant to IC 6-1.1-31-5, to consider additional factors not provided for in this rule or the manual incorporated herein by reference, the county assessor shall submit a written request for approval of such factors by the state board of tax commissioners, at least sixty (60) days before the assessments are made, and no later than January 1, 2002. *(Department of Local Government Finance; 50 IAC 2.3-1-1; filed May 23, 2001, 4:01 p.m.: 24 IR 3015; filed Aug 26, 2002, 10:36 a.m.: 26 IR 6)*

LSA Document #01-305(F)
Notice of Intent Published: 24 IR 4013
Proposed Rule Published: December 1, 2001; 25 IR 835
Hearing Held: December 27, 2001
Approved by Attorney General: August 8, 2002
Approved by Governor: August 14, 2002
Filed with Secretary of State: August 26, 2002, 10:36 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-2(F)

DIGEST

Amends 312 IAC 3-1 that governs adjudicatory procedures by the natural resources commission and its division of hearings. The amendments would incorporate and coordinate responsibilities of the division of hearings with respect to its responsibilities to the Indiana board of registration for soil scientists. Makes technical changes. Effective 30 days after filing with the secretary of state.

312 IAC 3-1-1 **312 IAC 3-1-8**
312 IAC 3-1-2 **312 IAC 3-1-14**
312 IAC 3-1-3 **312 IAC 3-1-18**

SECTION 1. 312 IAC 3-1-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-1 Administration
Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5; IC 14; IC 25-17.6

Sec. 1. (a) This rule controls proceedings governed by IC 4-21.5 for which the commission, or an administrative law judge for the commission, is the ultimate authority.

(b) An affected person who is aggrieved by a determination of:
(1) the director;
(2) a delegate of the director;
(3) a board (other than the commission when acting as the ultimate authority);
(4) a delegate of the board (other than an administrative law judge);
(5) a person who has been delegated authority under 312 IAC 2-2; ~~or~~
(6) the **Indiana** board of ~~certification~~ **licensure** for professional geologists under IC 25-17.6; **or**
(7) the Indiana board of registration for soil scientists under IC 25-31.5;

may apply for administrative review of the determination under IC 4-21.5 and this rule.

(c) As used in this rule, "division director" refers to the director of the division of hearings of the commission. *(Natural Resources Commission; 312 IAC 3-1-1; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 748; filed Aug 29, 2002, 1:03 p.m.: 26 IR 7)*

SECTION 2. 312 IAC 3-1-2, AS AMENDED AT 25 IR 1543, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-2 Ultimate authority

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-4; IC 14-34-4-13; IC 14-34-15-7; IC 25-17.6; IC 25-31.5

Sec. 2. (a) Except as provided in subsection (b), the commission is the ultimate authority for the department and any department board.

(b) An administrative law judge is the ultimate authority for an administrative review under the following:

(1) An order under IC 14-34, except for a proceeding:
  (A) concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13; or
  (B) a proceeding for suspension or revocation of a permit under IC 14-34-15-7.
(2) An order granting or denying temporary relief under IC 14-34 or an order voiding, terminating, modifying, staying, or continuing an emergency or temporary order under IC 4-21.5-4.
(3) An order designated as a final order in section 9 of this rule.

(c) An administrative law judge is also the ultimate authority for the **following:**

(1) The Indiana board of licensure for professional geologists under IC 25-17.6.

(2) The Indiana board of registration for soil scientists under IC 25-31.5.

(Natural Resources Commission; 312 IAC 3-1-2; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543; filed Aug 29, 2002, 1:03 p.m.: 26 IR 8)

SECTION 3. 312 IAC 3-1-3, AS AMENDED AT 25 IR 1543, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-3 Initiation of a proceeding for administrative review

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-3-7; IC 4-21.5-3-8; IC 4-21.5-4; IC 14-34; IC 14-37-9; IC 25

Sec. 3. (a) A proceeding before the commission, under IC 4-21.5, as well as administrative review of a determination of the **Indiana** board of licensure for professional geologists **or the Indiana board of registration for soil scientists,** is initiated when one (1) of the following is filed with the Division of Hearings, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana:

(1) A petition for review under IC 4-21.5-3-7.
(2) A complaint under IC 4-21.5-3-8.
(3) A request for temporary relief under IC 14-34.
(4) A request to issue or for review of an issued emergency or other temporary order under IC 4-21.5-4.
(5) A request concerning an integration order under IC 14-37-9.
(6) An answer to an order to show cause under section 5 of this rule.
(7) A referral by the director of a petition for and challenge to litigation expenses under section 13(g) of this rule.

(b) As soon as practicable after the initiation of administrative review under subsection (a), the division director shall appoint an administrative law judge to conduct the proceeding. *(Natural Resources Commission; 312 IAC 3-1-3; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543; filed Aug 29, 2002, 1:03 p.m.: 26 IR 8)*

SECTION 4. 312 IAC 3-1-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-8 Administrative law judge; automatic change

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-4; IC 14-34; IC 25

Sec. 8. (a) In addition to the reasons stated for the disqualification of an administrative law judge under IC 4-21.5, an automatic change of administrative law judge may be obtained under this section.

(b) A party, within ten (10) days after the appointment of an administrative law judge, may file a written motion for change of the administrative law judge without specifically stating the ground for the request.

(c) The administrative law judge shall grant a motion filed under subsection (b) and promptly notify the division director. The division director shall inform the parties of the names of two (2) other individuals from whom a substitute administrative law judge may be selected. A party who is opposed to the party who filed the motion under subsection (b) may, within five (5) days, select one (1) of the individuals named by the division director to serve as the substitute administrative law judge. In the absence of a timely designation by an opposing party under this subsection, the selection shall be made by the division director.

(d) This section does not apply:

(1) where a previous change of administrative law judge has been requested under this section;

(2) to a proceeding under IC 4-21.5-4;
(3) to temporary relief under:
(A) IC 13-4.1 before its repeal; or
(B) IC 14-34;
(4) if an administrative law judge has issued a stay or entered an order for disposition of all or a portion of the proceeding; ~~or~~
(5) if the commission orders a suspension of the section where its continued application is impracticable as a result of inadequate staffing; **or**
(6) to a proceeding to review a determination by the Indiana board of licensure for professional geologists or the Indiana board of registration for soil scientists.
(Natural Resources Commission; 312 IAC 3-1-8; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1319; filed Feb 7, 2000, 3:31 p.m.: 23 IR 1365; filed Aug 29, 2002, 1:03 p.m.: 26 IR 8)

SECTION 5. 312 IAC 3-1-14, AS AMENDED AT 25 IR 1543, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-14 Court reporter; transcripts
Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 14; IC 25-17.6; IC 25-31.5

Sec. 14. (a) The commission (or, for administrative review of orders under IC 25-17.6, the **Indiana** board of licensure for professional geologists **or under IC 25-31.5, the Indiana board of registration for soil scientists)** shall employ and engage the services of a stenographer or court reporter, either on a full-time or a part-time basis, to record evidence taken during a hearing.

(b) A party may obtain a transcript of the evidence upon a written request to the administrative law judge.

(c) The party who requests a transcript under subsection (b) shall pay the cost of the transcript:
(1) as billed by the court reporting service; or
(2) if the transcript is prepared by an employee of the commission, as determined from time to time by the commission on a per page basis after consideration of all expenses incurred in the preparation of the transcript.

(d) For a proceeding in which the commission or its administrative law judge is the ultimate authority, a court reporter who is not an employee of the commission will be engaged to record a hearing upon a written request by a party filed at least forty-eight (48) hours before a hearing. *(Natural Resources Commission; 312 IAC 3-1-14; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1322; filed Oct 19, 1998, 10:12 a.m.: 22 IR 750; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543; filed Aug 29, 2002, 1:03 p.m.: 26 IR 9)*

SECTION 6. 312 IAC 3-1-18, AS AMENDED AT 25 IR 1544, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-18 Petitions for judicial review
Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-5-8; IC 14; IC 25

Sec. 18. (a) A person who wishes to take judicial review of a final agency action entered under this rule shall serve copies of a petition for judicial review upon the persons described in IC 4-21.5-5-8.

(b) The copy of the petition required under IC 4-21.5-5-8(a)(1) to be served upon the ultimate authority shall be served at the following address:
Division of Hearings
Natural Resources Commission
Indiana Government Center-South
402 West Washington Street, Room W272
Indianapolis, Indiana 46204.
This address applies whether the commission or an administrative law judge is the ultimate authority.

(c) Where the department or the state historic preservation review board is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:
Director
Department of Natural Resources
Indiana Government Center-South
402 West Washington Street, Room W256
Indianapolis, Indiana 46204.

(d) Where the **Indiana** board of licensure for professional geologists is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:
Indiana State Geologist
Indiana University
611 North Walnut Grove
Bloomington, Indiana 47405-2208.

(e) Where the Indiana board of registration for soil scientists is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:
Office of Indiana State Chemist
Purdue University
1154 Biochemistry
West Lafayette, Indiana 47907-1154.

~~(c)~~ **(f)** The commission and its administrative law judge provide the forum for administrative review under this rule. Neither the commission nor the administrative law judge is a party. *(Natural Resources Commission; 312 IAC 3-1-18; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1323; filed Oct 19, 1998, 10:12 a.m.: 22 IR 750; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1544; filed Aug 29, 2002, 1:03 p.m.: 26 IR 9)*

LSA Document #02-2(F)
Notice of Intent Published: 25 IR 1670
Proposed Rule Published: May 1, 2002; 25 IR 2552
Hearing Held: May 27, 2002
Approved by Attorney General: August 13, 2002
Approved by Governor: August 28, 2002
Filed with Secretary of State: August 29, 2002, 1:03 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #99-177(F)

DIGEST

Repeals 326 IAC 11-5 concerning fluoride emissions for existing aluminum plants. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: September 1, 1999, Indiana Register (22 IR 3997).

Second Notice of Comment Period and Notice of First Hearing: November 1, 2001, Indiana Register (25 IR 555).

Date of First Hearing: February 6, 2002.

Proposed Rule and Notice of Second Hearing: March 1, 2002, Indiana Register (25 IR 1984).

Date of Second Hearing: June 5, 2002.

326 IAC 11-5

SECTION 1. 326 IAC 11-5 IS REPEALED.

LSA Document #99-177(F)
Proposed Rule Published: March 1, 2002; 25 IR 1984
Hearing Held: June 5, 2002
Approved by Attorney General: August 12, 2002
Approved by Governor: August 27, 2002
Filed with Secretary of State: August 28, 2002, 1:48 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-43(F)

DIGEST

Amends 326 IAC 11-4-5 concerning particulate emission limits for Knauf Fiber Glass in Shelbyville, Indiana. Updates references to equipment to reflect current operations and deletes references to equipment that no longer exists and associated emission limits. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2000, Indiana Register (23 IR 1488).

Second Notice of Comment Period and Notice of First Hearing: November 1, 2000, Indiana Register (24 IR 555).

Change in Notice of First Hearing: February 1, 2001, Indiana Register (24 IR 1375).

Change of Notice of First Hearing: March 1, 2002, Indiana Register (25 IR 1926).

Date of First Hearing: March 6, 2002.

Proposed Rule and Notice of Public Hearing: April 1, 2002, Indiana Register (25 IR 2285).

Date of Second Hearing: May 1, 2002.

326 IAC 11-4-5

SECTION 1. 326 IAC 11-4-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-4-5 Shelby County

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-17-1; IC 13-17-3

Sec. 5.

Shelby County
Source: Knauf Fiber Glass

Facility Description	~~Max.~~ **Maximum** Hourly Emission Rate lbs/hour
~~203 oven~~	~~3.96~~
~~204~~ **605** oven	8.00
~~304 oven~~	~~1.05~~
601 Forming plus oven	28.28
603 Forming plus oven	16.49
~~1101 oven~~	~~0.16~~
~~1102 oven~~	~~0.16~~
~~1103 oven~~	~~0.16~~
~~1104 oven~~	~~0.16~~
~~1110 oven~~	~~0.16~~
~~1111 oven~~	~~0.16~~
602 Forming plus oven	33.27
Superfine Processes	
~~203 furnace~~	~~9.47~~
~~204~~ **605** furnace	10.00
~~203 forming~~	~~19.90~~
~~204~~ **605** forming	15.00

(Air Pollution Control Board; 326 IAC 11-4-5; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2552; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Aug 28, 2002, 1:50 p.m.: 26 IR 10)

LSA Document #00-43(F)
Proposed Rule Published: April 1, 2002; 25 IR 2285
Hearing Held: May 1, 2002
Approved by Attorney General: August 12, 2002
Approved by Governor: August 27, 2002
Filed with Secretary of State: August 28, 2002, 1:50 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #01-376(F)

DIGEST

Amends 675 IAC 14-4.2, the 2001 Indiana Residential Code, so as not to be in conflict with provisions of the 2002 Indiana Electrical Code, 675 IAC 17-1.6. Adds 675 IAC 17-1.6, which adopts by reference and amends the 2002 National Electrical Code 2002 edition first printing, and Errata to the First Printing (Errata date January 18, 2002), both published by the National Fire Protection Association, as the Indiana Electrical Code, 2002 Edition. Repeals 675 IAC 17-1.5. Effective 30 days after filing with the secretary of state.

675 IAC 14-4.2-181.1
675 IAC 14-4.2-182.1
675 IAC 14-4.2-185.1
675 IAC 14-4.2-187
675 IAC 14-4.2-187.1
675 IAC 14-4.2-187.2
675 IAC 14-4.2-187.3
675 IAC 14-4.2-187.4
675 IAC 14-4.2-190.1
675 IAC 14-4.2-190.2
675 IAC 14-4.2-190.3
675 IAC 14-4.2-190.4
675 IAC 14-4.2-190.5
675 IAC 14-4.2-191.1
675 IAC 14-4.2-191.2
675 IAC 14-4.2-191.3
675 IAC 14-4.2-191.4
675 IAC 14-4.2-191.5
675 IAC 14-4.2-192.1
675 IAC 14-4.2-192.2
675 IAC 14-4.2-192.3
675 IAC 14-4.2-192.4
675 IAC 14-4.2-192.5
675 IAC 14-4.2-192.6
675 IAC 14-4.2-193.1
675 IAC 14-4.2-193.2
675 IAC 14-4.2-193.3
675 IAC 14-4.2-193.4
675 IAC 14-4.2-193.5
675 IAC 14-4.2-194.1
675 IAC 14-4.2-194.2
675 IAC 14-4.2-194.3
675 IAC 14-4.2-194.4
675 IAC 14-4.2-194.5
675 IAC 14-4.2-194.6
675 IAC 14-4.2-194.7
675 IAC 17-1.5
675 IAC 17-1.6

SECTION 1. 675 IAC 14-4.2-181.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-181.1 Section E3301.2; scope
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 181.1. Change Section E3301.2 to read as follows: Chapters 1 and 33 through 42 shall cover the installation of electrical systems, equipment, and components for the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems that are part of a Class 1 structure-townhouse or Class 2 structure-1 and 2 family dwelling.

Exception: This section does not require the installation of an electrical system in Class 2 structures.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-181.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 11)

SECTION 2. 675 IAC 14-4.2-182.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-182.1 Section E3302.2; penetrations of fire-resistance-rated assemblies
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 182.1. Delete "Section R320.2" in the last sentence and replace with "Section R321". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-182.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 11)*

SECTION 3. 675 IAC 14-4.2-185.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-185.1 Section E3306.5; individual conductor insulation
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 185.1. Delete the second sentence in Section E3306.5 without substitution. Delete the period after the last sentence and add "in accordance with Table E3605.1.". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-185.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 11)*

SECTION 4. 675 IAC 14-4.2-187 IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.2-187 Section E3401; general
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 187. Change Section E3401 as follows: (a) Delete the definition of APPROVED and substitute to read as follows: See the definition of APPROVED in SECTION R202.

(b) Delete the definition of BRANCH CIRCUIT, GENERAL PURPOSE and substitute: A branch circuit that supplies two (2) or more receptacles or outlets for lighting and appliances.

(c) Delete the definition of GROUND-FAULT CIRCUIT-INTERRUPTER and substitute: A device intended for the protection of personnel that functions to de-energize a circuit or portion thereof within an established period of time when a current to ground exceeds the values established for a Class A device.

~~(b)~~ **(d)** Delete the definition of LABELED and substitute as follows: See the definition of LABELED in SECTION R202.

~~(c)~~ **(e)** Delete the definition of LISTED and substitute to read as follows: See the definition of LISTED AND LISTING in SECTION R202. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-187; filed May 23, 2001, 4:02 p.m.: 24 IR 3062; errata filed Jun 12, 2001, 2:18 p.m.: 24 IR 3070; filed Aug 14, 2002, 4:20 p.m.: 26 IR 11)*

SECTION 5. 675 IAC 14-4.2-187.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-187.1 Section E3501.6.2; service disconnect location

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 187.1. At the end of Section E3501.6.2, add a sentence to read as follows: "Conductors shall be considered outside of a building or structure under any of the following conditions:

(1) where installed under not less than 51 mm (2 in.) of concrete beneath a building or other structure,

(2) where installed within a building or other structure in a raceway that is encased in concrete or brick not less than 51 mm (2 in.) thick, or,

(3) where installed in conduit and under not less than 457 mm (18 in.) of earth beneath a building or other structure.".

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-187.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)

SECTION 6. 675 IAC 14-4.2-187.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-187.2 Table E3503.1; service conductor and grounding electrode conductor sizing

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 187.2. Delete all references to insulation types without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-187.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 7. 675 IAC 14-4.2-187.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-187.3 Section E3504.2.1; above roofs

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 187.3. In Exception 1, after "pedestrian", insert "or vehicular". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-187.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 8. 675 IAC 14-4.2-187.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-187.4 Section E3505.5; protection of service cables against damage

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 187.4. Delete "rigid nonmetallic conduit suitable for the location" and insert "Schedule 80 rigid nonmetallic conduit". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-187.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 9. 675 IAC 14-4.2-190.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-190.1 Section E3602.10; branch circuits serving heating loads

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 190.1. In the second sentence, insert "25" to the list of circuit ratings. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-190.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 10. 675 IAC 14-4.2-190.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-190.2 Section E3602.12; branch circuits serving room air conditioners

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 190.2. In item 4, delete "or the rating of the branch-circuit conductors,". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-190.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 11. 675 IAC 14-4.2-190.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-190.3 Section E3602.12.1; where no other loads are supplied

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 190.3. Delete "appliances are also supplied" and insert "loads are supplied". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-190.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 12. 675 IAC 14-4.2-190.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-190.4 Section E3602.12.2; where lighting units or other appliances are also supplied

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 190.4. Delete the text and substitute: The total marked rating of a cord-and-attachment-plug-connected room air conditioner shall not exceed 50 percent of the rating of a branch circuit where lighting outlets, other appliances, or general-use receptacles are also supplied. Where the circuitry is interlocked to prevent simultaneous

operation of the room air conditioner and energization of other outlets on the same branch circuit, a cord-and-attachment-plug-connected room air conditioner shall not exceed 80 percent of the branch-circuit rating. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-190.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 12)*

SECTION 13. 675 IAC 14-4.2-190.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-190.5 Section E3703.3; protection from damage

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 190.5. In the third sentence of Section E3703.3, delete "service laterals" and substitute "underground service conductors". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-190.5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 14. 675 IAC 14-4.2-191.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.1 Section E3801.4.5; receptacle outlet location

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.1. (a) Change the first statement to read: Receptacle outlets shall be located above, but not more than 20 inches (508 mm) above the countertop.

(b) In the first sentence of the exception, change "18 inches (458 mm)" to "20 inches (508 mm)". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 15. 675 IAC 14-4.2-191.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.2 Section E3801.6; bathroom

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.2. Delete the second sentence and substitute: The receptacle outlet shall be located on a wall or partition that is adjacent to the basin or basin countertop. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 16. 675 IAC 14-4.2-191.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.3 Section E3801.9; basements and garages

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.3. In the last sentence, change "in the unfinished portion" to "in each separate unfinished portion". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 17. 675 IAC 14-4.2-191.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.4 Section E3802; ground-fault and arc-fault circuit-interrupter protection

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.4. Add Section E3802.7.1 after Section E3802.7 to read: Boathouses. All 125-volt, single-phase, 15- or 20-ampere receptacles installed in boathouses shall have ground-fault circuit-interrupter protection for personnel. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 18. 675 IAC 14-4.2-191.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-191.5 Section E3802.8; exempt receptacles

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 191.5. Change to read as follows: Receptacles installed under exceptions to Sections E3802.2 and E3802.5 shall not be considered as meeting the requirements of Section E3801.9. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-191.5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 19. 675 IAC 14-4.2-192.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.1 Section E3803.3; additional locations

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.1. In the second sentence, the third sentence, and the Exception, delete "egress door" and substitute "entrances or exits". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 20. 675 IAC 14-4.2-192.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.2 Section E3805.1; box, conduit body, or fitting; where required

Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.2. In the first sentence, after "junction point",

insert ", termination point". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 13)*

SECTION 21. 675 IAC 14-4.2-192.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.3 Section E3805.3.1; nonmetallic-sheathed cable and nonmetallic boxes
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.3. After "Where nonmetallic-sheathed cable", insert "or multiconductor Type UF cable". After "¼ inch (6.4 mm)", insert "and beyond any cable clamp". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 22. 675 IAC 14-4.2-192.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.4 Section E3805.3.2; securing to box
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.4. In the exception, after "Where nonmetallic-sheathed", insert "or multiconductor Type UF". At the end of the exception, insert "Multiple cable entries shall be permitted in a single cable knockout opening". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 23. 675 IAC 14-4.2-192.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.5 Section E3806.5; in wall or ceiling
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.5. In the first sentence, after "tile", insert ", gypsum, plaster". In the second sentence, after "combustible", insert "surface". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 24. 675 IAC 14-4.2-192.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-192.6 Section E3806.8.2.1; nails
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 192.6. Change the section heading to "Nails and screws". In the text, delete "Nails", and insert "Nails and screws,". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-192.6; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 25. 675 IAC 14-4.2-193.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-193.1 Section E3808.8; types of equipment grounding conductors
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 193.1. Delete the first phrase in Item 1 and insert "A copper, aluminum, or copper-clad aluminum conductor". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-193.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 26. 675 IAC 14-4.2-193.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-193.2 Section E3901.3; indicating
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 193.2. In the second sentence, delete "single throw". Add an exception to read as follows: "Vertically operated double-throw switches shall be permitted to be in the closed (on) position with the handle in either the up or down position". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-193.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 27. 675 IAC 14-4.2-193.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-193.3 Section E3902.12; outdoor installation
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 193.3. Delete Section E3902.12 without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-193.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 28. 675 IAC 14-4.2-193.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-193.4 Section E3903.11; fixtures in clothes closets
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 193.4. In Item 4, delete "on". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-193.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 29. 675 IAC 14-4.2-193.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-193.5 Table E4103.5; overhead conductor clearances
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 193.5. In the second column, change "22" to "22.5", and change "14" to "14.5". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-193.5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 14)*

SECTION 30. 675 IAC 14-4.2-194.1 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.1 Section E4104.1; bonded parts
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.1. At the end of Item 1, add a sentence to read as follows: Where reinforcing steel is encapsulated with a nonconductive compound, provisions shall be made for an alternative means to eliminate voltage gradients that would otherwise be provided by unencapsulated, bonded reinforcing steel. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 31. 675 IAC 14-4.2-194.2 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.2 Section E4106.8.2; other enclosures
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.2. Add requirement 6 to read as follows: 6. Comprised of copper, brass, suitable plastic, or other approved corrosion-resistant material. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 32. 675 IAC 14-4.2-194.3 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.3 Section E4106.9.2; wiring methods
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.3. In the first sentence, after "corrosion-resistant metal,", insert ", liquidtight flexible nonmetallic conduit (LFNC-B),". In the second sentence, after the words "rigid nonmetallic conduit,", insert "or liquidtight flexible nonmetallic conduit". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 33. 675 IAC 14-4.2-194.4 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.4 Section E4106.10; electrically operated pool covers
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.4. Add a sentence to read as follows: The device that controls the operation of the motor for an electrically operated pool cover shall be located so that the operator has full view of the pool. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 34. 675 IAC 14-4.2-194.5 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.5 Section E4106.12.2; permanently wired radiant heaters
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.5. After the second sentence, delete the period and insert "unless otherwise approved". *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 35. 675 IAC 14-4.2-194.6 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.6 Section E4201.2; definitions
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.6. Before the definition of Class 2 circuit, insert "ABANDONED CLASS 2 CABLE" and its definition to read as follows: Installed Class 2 cable that is not terminated at equipment and not identified for future use with a tag. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.6; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 36. 675 IAC 14-4.2-194.7 IS ADDED TO READ AS FOLLOWS:

675 IAC 14-4.2-194.7 Section E4201.3; spread of fire or products of combustion
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 194.7. Add a new section E4201.3 to the end of section E4201 to read as follows: E4201.3 Spread of fire or products of combustion. The accessible portion of abandoned Class 2 cables shall not be permitted to remain. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.2-194.7; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

SECTION 37. 675 IAC 17-1.6 IS ADDED TO READ AS FOLLOWS:

Rule 1.6. Indiana Electrical Code, 2002 Edition

675 IAC 17-1.6-1 Adoption by reference
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 1. That certain document, being titled as National

Electrical Code, 2002 edition, First printing and Errata to the First Printing (Errata date January 18, 2002), both published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02269, is hereby incorporated by reference and made a part of this rule, except those portions as are amended and adopted in sections 3 through 26 of this rule. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-1; filed Aug 14, 2002, 4:20 p.m.: 26 IR 15)*

675 IAC 17-1.6-2 Title; availability
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 2. (a) This rule shall be known as the Indiana Electrical Code, 2002 edition, and shall be published, except for incorporated documents, by the fire and building services department for general distribution and use under the title. Whenever the term "this code" is used within this rule, including incorporated documents, it shall mean the Indiana Electrical Code.

(b) This rule, with the incorporated National Electrical Code, 2002 edition, is available for review and reference at the Fire and Building Services Department, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-2; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-3 Article 80; administration and enforcement
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 3. Article 80 is deleted in its entirety without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-3; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-4 Section 90.2; scope
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 4. Section 90.2 is amended to read as follows: (A) Covered. This code covers: Installations of electric conductors and equipment within or on Class 1 and Class 2 structures, including industrialized building systems, and other premises wiring covered by rules of the Commission in this title.

Class 1 and Class 2 Structures covered by the Indiana Residential Code shall be made to comply with the provisions of this code, or the electrical provisions of the Indiana Residential Code (675 IAC 14).

(B) Not Covered. This code does not cover:
(1) Installations in ships, watercraft, railway rolling stock, aircraft, automotive vehicles, and buildings or structures that are not Class 1 or Class 2 structures.
(2) Installations underground in mines.
(3) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.
(4) Installations of communication equipment under the exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installations.
(5) Installations, including associated lighting under the exclusive control of electric utilities for the purpose of communication, or metering; or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, etc., or outdoors on private property by established rights such as easements.
(6) Installations of electrical wiring, equipment, and devices, factory installed in manufactured homes under the authority of the U.S. Department of Housing and Urban Development (HUD).
(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-4; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)

675 IAC 17-1.6-5 Section 90.4; enforcement
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 5. Section 90.4 is amended to read as follows: Requirements covering enforcement, granting of variances, and approval of alternate methods or materials are covered in Indiana statutes and 675 IAC 12, the General Administrative Rules of the Commission. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-5; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-6 Section 90.6; formal interpretations
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 6. Section 90.6 is deleted in its entirety without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-6; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-7 Section 90.7; examination of equipment for safety
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 7. Section 90.7 is deleted in its entirety without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-7; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-8 Section 90.8; wiring planning
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 8. Section 90.8 is deleted in its entirety without substitution. *(Fire Prevention and Building Safety Commission: 675 IAC 17-1.6-8; filed Aug 14, 2002, 4:20 p.m.: 26 IR 16)*

675 IAC 17-1.6-9 Section 90.9; units of measurement
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 9. Delete the text of Section 90.9 and substitute the following: For the purpose of this code, the measurement system is the English (U.S. customary or inch-pound) system. Compliance with the numbers shown in the inch-pound system shall constitute compliance with this code. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-9; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-10 Article 100; definitions
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13-2-7; IC 22-13-2-11; IC 22-14-2-10; IC 22-15-2-7; IC 36-7-2-9; IC 36-8-17-9

Sec. 10. (a) In Part 1 of Article 100, delete the text of the definition of APPROVED and substitute to read as follows: APPROVED. Acceptance by the AUTHORITY HAVING JURISDICTION by one (1) of the following methods:

(1) investigation or tests conducted by recognized authorities; or

(2) investigation or tests conducted by technical or scientific organizations; or accepted principles.

The investigation, tests, or principles shall establish that the materials, equipment, and types of construction are safe for their intended purpose.

(b) In Part 1 of Article 100, delete the text of the definition of AUTHORITY HAVING JURISDICTION and substitute to read as follows: AUTHORITY HAVING JURISDICTION. The office of the state building commissioner authorized under IC 22-15-2-7; the office of the state fire marshal authorized under IC 22-14-2-10; the local building official authorized under IC 36-7-2-9 and local ordinance; the fire department authorized under IC 36-8-17-9.

(c) In Part 1 of Article 100, after the definition if ISOLATED, add the definition of KITCHEN to read as follows: KITCHEN means an area used, or designated to be used, for the preparation of food.

(d) In Part 1 of Article 100, delete the text of the definition of SPECIAL PERMISSION and substitute to read as follows: SPECIAL PERMISSION. A variance granted by the commission under IC 22-13-2-11 or a variance granted by a political subdivision and approved by the commission under IC 22-13-2-7(b). *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-10; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-11 Section 110.26; working clearances
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 11. Change Section 110.26(A)(1)(b) to read as follows: When approved, smaller spaces may be permitted where all uninsulated parts are at a voltage no greater than 30 volts RMS, or 42 volts peak, or 60 volts DC. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-11; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-12 Section 210.12; arc-fault circuit-interrupter protection
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 12. In Section 210.12(B), Dwelling unit bedrooms, delete "outlets" and insert "receptacle outlets". *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-12; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-13 Section 210.60; guest rooms
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 13. The first sentence in Section 210.60(A) is amended to read as follows: Guest rooms in hotels, motels, health care facilities, and similar occupancies shall have receptacle outlets installed in accordance with Section 210.52(A) and 210.52(D). *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-13; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-14 Section 230.2; number of services
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 14. (a) Change the second sentence of Section 230.2 to read as follows: For the purpose of Section 230.40, Exception No. 2 only, underground sets of conductors, size 1/0 AWG and larger, running to the same location as close as practical and connected together at their supply end, but not connected together at their load end, shall be considered to be one (1) lateral.

(b) Amend Section 230.2(B) Special occupancies, by deleting "By special permission" and inserting "When approved". *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-14; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-15 Section 230.40; service-entrance conductors
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 15. Change the second exception to Section 230.40 to read as follows: Exception No. 2: Where two (2) to six (6) service disconnecting means in separate enclosures are

grouped as close as practical at one (1) location and supply separate loads from one (1) service drop or lateral, one (1) set of service-entrance conductors shall be permitted to supply each or several such service equipment enclosures. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-15; filed Aug 14, 2002, 4:20 p.m.: 26 IR 17)*

675 IAC 17-1.6-16 Section 250.104; bonding of piping and exposed structural steel
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 16. In the first sentence of Section 250.104(B), delete "including gas piping," and insert "other than gas piping,". At the end of Section 250.104(B), add a sentence to read as follows: All aboveground metal gas piping upstream from the equipment shutoff valve shall be electrically continuous. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-16; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

675 IAC 17-1.6-17 Table 314.16(A); metal boxes
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 17. In the line for 4 x 1-¼-inch round/octagonal boxes and in the column for 8AWG conductor, delete "5" and insert "4". In the line for 3-¾ x 2 x 3-½-inch masonry box/gang boxes and in the column for 6AWG conductor, delete "2" and insert "4". *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-17; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

675 IAC 17-1.6-18 Section 334.10; uses permitted
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 18. (a) Delete the text of (2) in Section 334.10 and substitute: (2) In any building or structure not exceeding three (3) stories (see Section 362.10 for the definition of STORY).

(a) For exposed work except as prohibited in Section 334.12.

(b) Concealed within walls, floors, and ceilings except as prohibited in Section 334.12.

(b) Delete the text of (3) in Section 334.10 and substitute: (3) In any building or structure exceeding three (3) stories (see Section 362.10 for the definition of STORY), Type NM, Type NMC, and Type NMS cables shall be concealed within walls, floors, and ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating identified in listings of fire-rated assemblies. The 15-minute-finish-rated thermal barrier shall be permitted to be used for combustible walls, floors, and ceilings, except as prohibited in Section 334.12.

Exception: Where the building is provided with an approved automatic sprinkler system throughout, Type NM, Type NMC, and Type NMS cables are permitted to be used within walls, floors, ceilings, exposed or concealed, in buildings exceeding three (3) stories.
(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-18; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)

675 IAC 17-1.6-19 Section 334.12; uses not permitted
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 19. In Section 334.12(A), delete Item 1 without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-19; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

675 IAC 17-1.6-20 Section 362.10; uses permitted
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 20. (a) Delete the first two (2) sentences of text in Uses Permitted and substitute to read as follows: For the purpose of this section a story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1,829 mm) above grade for more than 50 percent of the total perimeter or is more than 12 feet (3,658 mm) above grade at any point, such usable or unused under-floor space shall be considered as a story.

(b) In Item (1) under Uses Permitted, delete "floors above grade" and substitute "stories".

(c) In Item (2) under Uses Permitted, delete "floors above grade" and substitute "stories".

(d) Delete the text of the exceptions to Items (2) and (5) and substitute to read as follows: Where the building is provided with an approved automatic sprinkler system throughout, ENT is permitted to be used within walls, floors, and ceilings, exposed or concealed, in buildings exceeding three (3) stories. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-20; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

675 IAC 17-1.6-21 Section 362.12; uses not permitted
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 21. In Item (7) under Uses not permitted, add 362.10(2) to the listed sections. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-21; filed Aug 14, 2002, 4:20 p.m.: 26 IR 18)*

675 IAC 17-1.6-22 Section 525.5; overhead conductor clearances
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 22. Change Section 525.5(B) to read as follows: (B) Clearance to Rides and Attractions. Amusement rides and amusement attractions shall be maintained not less than 3.048 m (10 ft) in any direction from overhead conductors operating at 600 volts or less, except for the conductors supplying the amusement ride or attraction. Amusement rides or attractions shall not be located within 4.57 m (15 ft) horizontally of conductors operating in excess of 600 volts. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-22; filed Aug 14, 2002, 4:20 p.m.: 26 IR 19)*

675 IAC 17-1.6-23 Section 547.1; scope
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 23. Change Section 547.1 to read as follows: The provisions of this section shall apply to the following agricultural buildings or that part of a building or adjacent areas of similar or like nature as specified in (A) and (B) below, unless the building is not a Class 1 structure. Agricultural buildings that are not Class 1 structures may be regulated by local ordinance. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-23; filed Aug 14, 2002, 4:20 p.m.: 26 IR 19)*

675 IAC 17-1.6-24 Section 550.25; arc-fault circuit-interrupter protection
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 24. Delete the text of Section 550.25(B), Bedrooms of Mobile Homes and Manufactured Homes, and substitute to read as follows: All branch circuits that supply 125-volt, single-phase, 15- and 20-ampere receptacle outlets installed in bedrooms of mobile homes and manufactured homes shall be protected by an arc-fault circuit-interrupter listed to provide protection of the entire branch circuit. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-24; filed Aug 14, 2002, 4:20 p.m.: 26 IR 19)*

675 IAC 17-1.6-25 Section 550.4; general requirements
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 25. Section 550.4(B) is amended by adding a second sentence to read as follows: Modular homes, constructed under 675 IAC 15, Industrialized Building Systems, shall comply with the provisions of Article 545 of this code. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-25; filed Aug 14, 2002, 4:20 p.m.: 26 IR 19)*

675 IAC 17-1.6-26 Section 600.1; scope
Authority: IC 22-13-2-2; IC 22-13-2-13
Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 26. Section 600.1 is amended to read as follows: This section covers the installation of conductors and equipment for electric signs and outline lighting as defined in Article 100 that are within or connected to Class 1 or Class 2 buildings or structures. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.6-26; filed Aug 14, 2002, 4:20 p.m.: 26 IR 19)*

SECTION 38. 675 IAC 17-1.5 IS REPEALED.

LSA Document #01-376(F)
Notice of Intent Published: 25 IR 408
Proposed Rule Published: January 1, 2002; 25 IR 1247
Hearing Held: March 18, 2002 and May 8, 2002
Approved by Attorney General: July 29, 2002
Approved by Governor: August 9, 2002
Filed with Secretary of State: August 14, 2002, 4:20 p.m.
Incorporated Documents Filed with Secretary of State: National Electrical Code, 2002 edition.

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #01-399(F)

DIGEST

Adds 760 IAC 1-5.1 to establish standards for credit life insurance and credit accident and health insurance. Repeals 760 IAC 1-5 and 760 IAC 1-14. Partially effective 30 days after filing with the secretary of state and partially effective January 1, 2003.

760 IAC 1-5
760 IAC 1-5.1
760 IAC 1-14

SECTION 1. 760 IAC 1-5.1 IS ADDED TO READ AS FOLLOWS:

Rule 5.1. Credit Life Insurance; Credit Accident and Health Insurance

760 IAC 1-5.1-1 Purpose and authority
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 1. The purpose of this rule is to protect the interests of debtors and the public in this state by providing a system of rate, policy form, and operating standards for the regulation of consumer credit insurance. *(Department of Insurance; 760 IAC 1-5.1-1; filed Sep 9, 2002, 3:00 p.m.: 26 IR 19, eff Jan 1, 2003)*

760 IAC 1-5.1-2 Definitions

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102; IC 27-1-23-1

Sec. 2. (a) The following definitions apply throughout this rule:

(1) "Affiliate" has the meaning set forth in IC 27-1-23-1.

(2) "Closed-end credit" means a credit transaction that does not meet the definition of open-end credit.

(3) "Compensation" means:

(A) commissions;

(B) dividends;

(C) retrospective rate credits;

(D) service fees;

(E) expense allowances or reimbursements;

(F) gifts;

(G) furnishing of equipment, facilities, goods, or services; or

(H) any other form of remuneration resulting directly from the sale of consumer credit insurance.

(4) "Consumer credit insurance" is a general term used to refer to any or all of credit life insurance and credit accident and health insurance.

(5) "Control" has the meaning set forth in IC 27-1-23-1.

(6) "Evidence of individual insurability" means a statement furnished by the debtor, as a condition of insurance becoming effective, that relates specifically to the health status or to the health or medical history of the debtor.

(7) "Gross debt" means the sum of the remaining payments owed to the creditor by the debtor.

(8) "Identifiable insurance charge" means a charge for a type of consumer credit insurance that is made to debtors having such insurance and not made to debtors not having such insurance; it includes a charge for insurance that is disclosed in the credit or other instrument furnished to the debtor that sets out the financial elements of the credit transaction and any difference in the finance, interest, service, or other similar charge made to debtors who are in like circumstances except for the insured or noninsured status of the debtor.

(9) "Loss ratio" means incurred claims divided by the sum of earned premiums and imputed interest earned on unearned premiums.

(10) "Net debt" means the amount necessary to liquidate the remaining debt in a single lump sum payment, excluding all unearned interest and other unearned finance charges.

(11) "Open-end credit" means credit extended by a creditor under an agreement in which the:

(A) creditor reasonably contemplates repeated transactions;

(B) creditor imposes a finance charge from time to time on an outstanding unpaid balance; and

(C) amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(12) "Person" has the meaning set forth in IC 27-1-23-1.

(13) "Preexisting condition" means any condition for which the insured debtor received medical advice, consultation, or treatment within six (6) months before the effective date of the coverage and from which the insured debtor becomes disabled within six (6) months after the effective date of this coverage.

(b) The following definitions apply throughout section 10 of this rule:

(1) "Experience" means earned premiums and incurred losses during the experience period.

(2) "Experience period" means the most recent period of time for which earned premiums and incurred losses are reported, but not for a period longer than three (3) full years.

(3) "Incurred losses" means total claims paid during the experience period, adjusted for the change in claim reserve.

(Department of Insurance; 760 IAC 1-5.1-2; filed Sep 9, 2002, 3:00 p.m.: 26 IR 20, eff Jan 1, 2003)

760 IAC 1-5.1-3 Rights and treatment of debtors

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102; IC 27-1-12-37; IC 27-8-4-4

Sec. 3. (a) If a creditor makes available to the debtors more than one (1) plan of consumer credit insurance, every debtor must be informed of each plan for which the debtor is eligible and of the premium or insurance charge for each.

(b) When a creditor requires insurance as additional security for a debt, the creditor shall inform the debtor that the debtor has the option of procuring alternative coverage. The debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

(c) The following applies to the termination of a group consumer credit insurance policy:

(1) If a debtor is covered by a group consumer credit insurance policy providing for the payment of single premiums to the insurer, or any other premium payment method that prepays coverage beyond one (1) month, then provision shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the premium has been paid.

(2) If a debtor is covered by a group consumer credit insurance policy providing for the payment of premiums to the insurer on a monthly basis, then the policy shall provide that, in the event of termination of the policy, termination notice shall be given to the insured debtor at

least thirty (30) days prior to the effective date of termination, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The insurer shall provide or cause to be provided this required information to the debtor.

(d) If the creditor adds identifiable insurance charges or premiums for consumer credit insurance to the debt, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within sixty (60) days after it is added to the debt.

(e) If the debt is discharged due to refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the refinanced debt. In all cases of termination prior to scheduled maturity, a refund of all unearned premium or unearned insurance charges paid by the debtor shall be paid or credited to the debtor as provided in section 8 of this rule. In any refinancing of the debt, the effective date of the coverage as respects any policy provision shall be deemed to be the first date on which the debtor became insured under the policy with respect to the debt that was refinanced, at least to the extent of the amount and term of the debt outstanding at the time of refinancing of the debt.

(f) A provision in an individual policy or group certificate that sets a maximum limit on total claim payments must apply only to that individual policy or group certificate.

(g) If a debtor prepays the debt in full, then any consumer credit insurance covering the debt shall be terminated and an appropriate refund of the consumer credit insurance premium shall be paid or credited to the debtor in accordance with section 8 of this rule. However, if the prepayment is a result of death or any other lump sum consumer credit insurance payment, no refund shall be required for the coverage under which the lump sum was paid. If a claim under credit accident and health coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit accident and health benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

(h) If a creditor has opened a line of credit for a debtor and, if permitted under IC 27-8-4-4(A) or IC 27-1-12-37(2)(F), is charging for this line of credit rather than the amount of debt in the event of the death of the debtor, the insured amount due is the amount of the established amount of credit against which premium was last charged.
(Department of Insurance; 760 IAC 1-5.1-3; filed Sep 9, 2002, 3:00 p.m.: 26 IR 20, eff Jan 1, 2003)

760 IAC 1-5.1-4 Determination of reasonableness of benefits in relation to premium charge
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 4. (a) Benefits provided by consumer credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty-five percent (55%). With the exception of deviations approved under section 10 of this rule, the rates shown in sections 6 and 7 of this rule, as adjusted pursuant to section 9 of this rule, shall be presumed to satisfy this loss ratio standard. Anticipated losses that develop or are expected to develop a loss ratio of not less than fifty-five percent (55%) shall be presumed reasonable. Any insurer filing a deviation in accordance with section 10 of this rule must satisfy the fifty-five percent (55%) loss ratio standard for their total consumer credit insurance business.

(b) If any insurer files for approval of any form providing coverage different than that described in sections 6 and 7 of this rule, the insurer shall demonstrate to the satisfaction of the commissioner that the premium rates to be charged for such coverage are:
(1) reasonably expected to develop a loss ratio of not less than fifty-five percent (55%); or
(2) actuarially consistent with the rates used for standard coverages.
(Department of Insurance; 760 IAC 1-5.1-4; filed Sep 9, 2002, 3:00 p.m.: 26 IR 21, eff Jan 1, 2003)

760 IAC 1-5.1-5 Compensation limitations
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 5. (a) An insurer shall not pay compensation in excess of forty percent (40%) of the net written prima facie premium of which not more than thirty-three *[percent]* **(33%) of net written prima facie premium may be paid to a creditor.**

(b) For purposes of subsection (a), prima facie premium means premium using the premium rates set out in sections 6 and 7 of this rule, or actuarially consistent premium rates for plans not described in sections 6 and 7 of this rule, without any adjustment pursuant to section 10 of this rule.
(Department of Insurance; 760 IAC 1-5.1-5; filed Sep 9, 2002, 3:00 p.m.: 26 IR 21, eff Jan 1, 2003)

760 IAC 1-5.1-6 Credit life insurance rates

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 6. (a) Subject to the conditions and requirements in subsection (b) and section 10 of this rule, the following prima facie rates are considered to meet the requirements of section 4 of this rule, and may be used without filing additional actuarial support:

(1) For monthly outstanding balance basis, sixty-nine cents ($0.69) per month per one thousand dollars ($1,000) of outstanding insured debt on single life and one dollar and fifteen cents ($1.15) per month per one thousand dollars ($1,000) of outstanding insured debt on joint life if premiums are payable on a monthly outstanding balance basis.

(2) If the premium is charged on a single premium basis, the rate shall be computed according to the following formula or according to a formula approved by the commissioner that produces rates substantially the same as those produced by the following formula:

$$S_p = \sum_{t=1}^{n} \left(\frac{O_p}{10} \times \frac{I_t}{I_i} \times (v^t - 1) \right)$$

$$v = \frac{1}{1 + (dis)}$$

Where: S_p = Single premium per one hundred dollars ($100) of initial consumer credit life insurance coverage.

O_p = 0.69, the prima facie consumer credit life insurance premium rate for monthly outstanding balance coverage from subdivision (1).

I_t = The scheduled amount of insurance for month t.

I_i = Initial amount of insurance. For a net insurance policy, I_i equals the initial principal balance of the loan.

dis = 0.0044, representing an annual discount rate of 5.0% for interest plus four-tenth *[sic., four-tenths]* of one percent (0.4%) for mortality.

n = The number of months in the term of the insurance.

(3) If the benefits provided are other than those described in this section, premium rates for such benefits shall be actuarially consistent with the rates provided in subdivisions (1) and (2).

(4) The prima facie rates included in this subsection and any other rates approved for use that are computed in accordance with the formula in subdivision (2) are presumed sufficient to provide for up to two (2) months of delinquencies. Therefore, the determination of the premium shall not reflect delinquencies.

(b) The premium rates in subsection (a) shall apply to contracts providing credit life insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible, and that contain the following provisions:

(1) Coverage for death by whatever means caused, except that coverage may exclude death resulting from any of the following:

(A) War or any act of war.

(B) Suicide within six (6) months after the effective date of the coverage.

(C) A preexisting condition or conditions. For the purpose of this subsection, the following apply:

(i) "Preexisting condition" means any condition for which the debtor received medical advice or treatment within six (6) months preceding the effective date of coverage.

(ii) No preexisting condition exclusion shall apply unless:

(AA) death is caused by or substantially contributed to by the preexisting condition; and

(BB) death occurs within six (6) months following the effective date of coverage.

(iii) A preexisting condition exclusion shall apply only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds one thousand dollars ($1,000).

(2) For the exclusions listed in subdivisions (1)(B) and (1)(C), the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.

(3) At the option of the insurer and in lieu of a preexisting condition exclusion on insurance written in connection with open-ended consumer credit, a provision may be included to limit the amount of insurance payable on death due to natural causes to the balance as it existed six (6) months prior to the date of death if there has been one (1) or more increases in the outstanding balance during the six (6) month period and if evidence of individual insurability has not been required in the six (6) month period prior to the date of death. This provision applies only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds one thousand dollars ($1,000).

(4) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

(c) The insurer shall apply rates as follows:

(1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the premium rates deemed reasonable will be the prima facie rates in subsection (a).

(2) Except as provided in subdivision (3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is fifteen thousand dollars ($15,000) or less, then the premium rates deemed reasonable will be the rates in subsection (a) multiplied by ninety percent (90%).

(3) If the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is greater than fifteen thousand dollars ($15,000) or the applicant elects to purchase coverage more than thirty (30) days after the date the debtor became eligible under a group plan of insurance, then the premium rates deemed reasonable will be the prima facie rates in subsection (a). For policies insuring open lines of credit, the insurer may require evidence of insurability for commitments that increase the outstanding debt above fifteen thousand dollars ($15,000).

(d) Insurers may use the same application forms for credit life insurance whether or not underwriting questions are asked pursuant to subsection (c). The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy that has not been underwritten and for which prima facie rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to subsection (c) are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents and producers. *(Department of Insurance; 760 IAC 1-5.1-6; filed Sep 9, 2002, 3:00 p.m.: 26 IR 22, eff Jan 1, 2003)*

760 IAC 1-5.1-7 Credit accident and health insurance rates

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 7. (a) Subject to the conditions and requirements in subsection (b) and section 10 of this rule, the following prima facie rates are considered to meet the requirements of section 4 of this rule, and may be used without filing additional actuarial support:

(1) If premiums are payable on a single-premium basis for the duration of the coverage, the prima facie rate per one hundred dollars ($100) of initial insured debt for single accident and health is as set forth in the following table and rates for monthly periods other than those listed shall be interpolated or extrapolated:

Original Number of Equal Monthly Installments	14 Day Retroactive Policy	14 Day Nonretroactive Policies	30 Day Retroactive Policies	30 Day Nonretroactive Policies
6	1.54	1.01	1.04	0.79
12	2.04	1.42	1.40	1.05
24	2.73	1.97	1.97	1.37
36	3.35	2.57	2.53	1.83
48	3.71	2.93	2.89	2.16
60	4.00	3.22	3.19	2.44
72	4.27	3.47	3.45	2.69
84	4.49	3.71	3.68	2.93
96	4.71	3.93	3.89	3.15
108	4.92	4.13	4.10	3.36
120	5.12	4.32	4.29	3.55

(2) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured gross debt, these premiums shall be computed according to the following formula or according to a formula approved by the commissioner, that produces rates actuarially consistent with the single premium rates in subdivision (1):

$$OP_n = \frac{10SP_n}{\left\{\sum_{t=1}^{n} \frac{(v^{t-1} \times (n-t+1))}{n}\right\}}$$

$$v = \frac{1}{1+(dis)}$$

Where: SP_n = Single premium rate per one hundred dollars ($100) of initial insured debt repayable in n equal monthly installments as shown in subdivision (1).

OP_n = Monthly outstanding balance premium rate per one thousand dollars ($1,000).

n = The number of months in the term of the insurance.

dis = 0.0041, representing an annual discount rate of five percent (5.0%) for interest.

(3) If the coverage provided is a constant maximum indemnity for a given period of time, the actuarial equivalent of subdivisions (1) and (2) shall be used.

(4) If the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month, an appropriate combination of the premium rate for a constant maximum indemnity for a given period of time, and the premium rate for a maximum indemnity that decreases in even amounts per month shall be used.

(5) The outstanding balance rate for credit accident and health insurance may be either a term-specified rate or may be a single composite term outstanding balance rate.

(b) Subject to the conditions and requirements in subsection (c) and section 10 of this rule, the prima facie rates for credit accident and health insurance calculated as shown in this subsection are considered to meet the requirements of

section 4 of this rule in the situation where the insurance is written on an open-end loan. These prima facie rates and the formulae used to calculate them may be used without filing additional actuarial support. Other formulae to convert from a closed-end credit rate to an open-end credit rate may be used if approved by the commissioner. The following establishes the prima facie rates for credit accident and health insurance on an open-end loan:

(1) If the maximum benefit of the insurance equals the net debt on the date of disability, the term of the loan is calculated according to the following formula:

1/(minimum payment percent).

The prima facie rate is determined by applying the calculated term to the rates shown in subsection (a). A composite minimum payment percentage may be used in place of the minimum payment percentage for a specific credit transaction.

(2) If the maximum benefit of the insurance equals the outstanding balance of the loan on the date of disability plus any interest accruing on that amount during disability, the term of the insurance (n) is estimated by using the following formula:

$$n = \ln \{1 - (1000i / \times)\} / \ln(v)$$

Where: i = Interest rate on the account or a composite interest rate used for the type of policy.

x = Monthly payment per one thousand dollars ($1,000) of coverage consistent with the term calculated in this subdivision.

$$v = 1/(1 + i)$$

The calculated value of the term is used to look up an initial rate in subsection (a). The final prima facie rate is calculated by multiplying the initial rate by the following:

the adjustment n/a_n

Where: n = The term calculated as per the following equation:

$$a_n = (1 - v)^n/i$$

As an alternative to the calculation required in subsection (b) *[this subsection]***, a composite rate for open-end revolving loans may be filed for approval by the commissioner. This rate must be actuarially equivalent to the prima facie rate.**

(c) If the accident and health coverage is sold on a joint basis (involving two (2) people), the rate for the joint coverage shall be filed with the commissioner prior to use.

(d) If the benefits provided are other than those described in subsection (a) or (b), rates for those benefits shall be actuarially consistent with rates provided in subsection *[sic., subsections]* **(a) and (b).**

(e) The premium rates in subsection (a) shall apply to contracts providing credit accident and health insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible and that contain the following provisions:

(1) Coverage for disability by whatever means caused, except that coverage may be excluded for disabilities resulting from:

(A) normal pregnancy;

(B) war or any act of war;

(C) elective surgery;

(D) intentionally self-inflicted injury;

(E) sickness or injury caused by or resulting from the use of alcoholic beverages or narcotics (including hallucinogens) unless they are administered on the advice of and taken as directed, by a licensed physician other than the insured;

(F) flight in any aircraft other than a commercial scheduled aircraft; or

(G) a preexisting condition.

(2) For the exclusion listed in subdivision (1)(G), the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.

(3) A definition of disability providing that for the first twelve (12) months of disability, total disability shall be defined as the inability to perform the essential functions of the insured's own occupation. Thereafter, it shall mean the inability of the insured to perform the essential functions of any occupation for which he or she is reasonably suited by virtue of education, training, or experience.

(4) No employment requirement more restrictive than one requiring that the debtor be employed full time on the effective date of coverage and for at least twelve (12) consecutive months prior to the effective date of coverage. As used in this subdivision, "full time" means a regular work week of not less than thirty (30) hours.

(5) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

(6) A daily benefit of not less than one-thirtieth ($^1/_{30}$) of the monthly benefit payable under the policy.

(f) Requirements for applying rates shall be as follows:

(1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the pre-

mium rates deemed reasonable will be the prima facie rates in subsection (a).

(2) Except as provided in subdivision (3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is fifteen thousand dollars ($15,000) or less, then the premium rates deemed reasonable will be the rates in subsection (a) multiplied by ninety percent (90%).

(3) If the insurer, its agent, or the application form for credit life insurance requests or requires that:

(A) the debtor provide evidence of insurability and the initial amount of insurance is greater than fifteen thousand dollars ($15,000); or

(B) the applicant elects to purchase coverage more than thirty (30) days after the date the debtor became eligible under a group plan of insurance;

then the premium rates deemed reasonable will be the prima facie rates in subsection (a). For policies insuring open lines of credit, the insurer may require evidence of insurability for commitments that increase the outstanding debt above fifteen thousand dollars ($15,000).

(g) Insurers may use the same application forms for credit accident and health insurance whether or not underwriting questions are asked pursuant to subsection (f). The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy that has not been underwritten and for which prima facie rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to subsection (f) are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents or other producers. *(Department of Insurance; 760 IAC 1-5.1-7; filed Sep 9, 2002, 3:00 p.m.: 26 IR 23, eff Jan 1, 2003)*

760 IAC 1-5.1-8 Refund formulas

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102; IC 27-8-4-8

Sec. 8. (a In the event of termination, no charge for consumer credit insurance may be made for the first fifteen (15) days of a month and a full month may be charged for sixteen (16) days or more of a month.

(b) The requirement of IC 27-8-4-8(B) that refund formulas be filed with the commissioner shall be considered fulfilled if the refund formulas are set forth in the individual policy or group certificate filed with the commissioner.

(c) Refund formulas must develop refunds that are at least as favorable to the debtor as refunds equal to the premium cost of scheduled benefits subsequent to the date of cancellation or termination, computed at the schedule of premium rates in effect on the date of issue.

(d) No refund of one dollar ($1) or less need be made. *(Department of Insurance; 760 IAC 1-5.1-8; filed Sep 9, 2002, 3:00 p.m.: 26 IR 25, eff Jan 1, 2003)*

760 IAC 1-5.1-9 Experience reports and adjustment of prima facie rates

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 9. (a) Each insurer doing insurance business in this state shall annually file with the commissioner and the National Association of Insurance Commissioners (NAIC) support and services office a report of consumer credit insurance written on a calendar year basis. The report shall utilize the Credit Insurance Supplement–Annual Statement Blank as approved by the NAIC, and shall contain data separately for each state, rather than an allocation of the company's countrywide experience. The filing shall be made in accordance with and no later than the due date in the instructions to the annual statement.

(b) The commissioner will, on a triennial basis, review the loss ratio standards set forth in section 4 of this rule and the prima facie rates set forth in sections 6 and 7 of this rule and determine the rate of expected claims on a statewide basis, compare such rate of expected claims with the rate of actual claims for the preceding three (3) years determined from the incurred claims and earned premiums at prima facie rates reported in the annual statement supplement or other available source, and publish in the Indiana Register the adjusted actual statewide prima facie rates to be used by insurers during the next triennium. The rates will reflect the difference between actual claims based on experience and expected claims based on the loss ratio standards set forth in section 4 of this rule applied to the prima facie rates set forth in sections 6 and 7 of this rule. If the commissioner determines, at the conclusion of the triennial review, that the rate adjustment is de minimus *[sic., de minimis]***, then the statewide prima facie rate will not be changed. The commissioner will publish a statement that the rate will not change and the results of the rate review required by this subsection.**

(c) The commissioner will, on a triennial basis, review the discount rates for interest included in the formulae in sections 6(a) and 7(a) of this rule, and adjust those discount rates to equal the average of the rates being paid at that time on three (3) year United States Treasury notes as reported in the Wall Street Journal on the last day of sale in the most recent three (3) calendar years. The commissioner shall publish the revised discount rates in the Indiana Register. If the commissioner determines, at the conclusion

of the triennial review, that the rate adjustment is de minimus *[sic., de minimis]***, then the discount rate will not be changed.** *(Department of Insurance; 760 IAC 1-5.1-9; filed Sep 9, 2002, 3:00 p.m.: 26 IR 25, eff Jan 1, 2003)*

760 IAC 1-5.1-10 Use of rates; direct business only
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 10. (a) An insurer that files rates or has rates on file that are equivalent to the prima facie rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, may use those rates without further proof of their reasonableness.

(b) An insurer may file for approval of and use rates that are higher than the prima facie rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, as long as the filed rates are consistent with section 4 of this rule. If rates higher than the prima facie rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, are filed for approval, the filing shall specify the account or accounts to which the rates apply. The rates may be applied:

(1) uniformly to all accounts of the insurer;

(2) on an equitable basis approved by the commissioner to only one (1) or more accounts of the insurer for which the experience has been less favorable than expected; or

(3) according to a case-rating procedure on file with the commissioner.

(c) The approval period of deviated rates are established as follows:

(1) A deviated rate will be in effect for a period of time not longer than the experience period used to establish the rate, that is, one (1) year, two (2) years, or three (3) years. An insurer may file for a new rate before the end of a rate period, but not more often than once during any twelve (12) month period.

(2) Notwithstanding the provision of subsection (a), if an account changes insurers, the rate approved to be used for the account by the prior insurer is the maximum rate that may be used by the succeeding insurer for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on the account, if sooner.

(d) An insurer may at any time use a rate for an account that is lower than its filed rate without notice to the commissioner. *(Department of Insurance; 760 IAC 1-5.1-10; filed Sep 9, 2002, 3:00 p.m.: 26 IR 26, eff Jan 1, 2003)*

760 IAC 1-5.1-11 Supervision of consumer credit insurance operations
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 11. (a) Each insurer transacting credit insurance in this state shall be responsible for conducting a thorough periodic review of creditors with respect to their credit insurance business with such creditors, to assure compliance with the insurance laws of this state and the rules promulgated by the commissioner.

(b) Written records of such reviews shall be maintained by the insurer for a period of no less than five (5) years for review by the commissioner. *(Department of Insurance; 760 IAC 1-5.1-11; filed Sep 9, 2002, 3:00 p.m.: 26 IR 26, eff Jan 1, 2003)*

760 IAC 1-5.1-12 Prohibited transactions
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102; IC 27-4-1

Sec. 12. The following practices, when engaged in by insurers in connection with the sale or placement of consumer credit insurance, or as an inducement thereto, shall be considered unfair methods of competition subject to the provisions of IC 27-4-1:

(1) The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than the payment of agent's commissions.

(2) Deposit by an insurer of money or securities without interest or at a lesser rate of interest than is currently being paid by the creditor, bank, or financial institution to other depositors of like amounts for similar durations. This subsection shall not be construed to prohibit the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business.
(Department of Insurance; 760 IAC 1-5.1-12; filed Sep 9, 2002, 3:00 p.m.: 26 IR 26, eff Jan 1, 2003)

760 IAC 1-5.1-13 Implementation
Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 13. (a) Approval of all forms and premium rates not in compliance with this rule is hereby withdrawn as of January 1, 2003.

(b) Any deviations thought to be appropriate by an insurer as a result of promulgation of this rule shall be filed in accordance with the provisions of section 10 of this rule no later than October 1, 2002. *(Department of Insurance; 760 IAC 1-5.1-13; filed Sep 9, 2002, 3:00 p.m.: 26 IR 26)*

SECTION 2. THE FOLLOWING ARE REPEALED: 760 IAC 1-5; 760 IAC 1-14.

SECTION 3. **SECTION 1, 760 IAC 1-5.1-1 through 760 IAC 1-5.1-12, takes effect January 1, 2003.**

LSA Document #01-399(F)
Notice of Intent Published: 25 IR 833
Proposed Rule Published: May 1, 2002; 25 IR 2575
Hearing Held: June 13, 2002
Approved by Attorney General: September 6, 2002
Approved by Governor: September 6, 2002
Filed with Secretary of State: September 9, 2002, 3:00 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION

LSA Document #02-24(F)

DIGEST

Adds 762 IAC 2 to address member requirements and procedures, withdrawals by members, procedures for charges to members, including payment and collection thereof, and to otherwise implement IC 27-1-29 and IC 27-1-29.1 regarding the political subdivision risk management fund and catastrophic liability fund. Effective 30 days after filing with secretary of state.

762 IAC 2

SECTION 1. 762 IAC 2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 2. MEMBERSHIP IN POLITICAL SUBDIVISION RISK MANAGEMENT FUND AND CATASTROPHIC LIABILITY FUND

Rule 1. Responsibilities

762 IAC 2-1-1 Definitions
Authority: IC 27-1-29-16; IC 27-1-29.1-20
Affected: IC 27-1-29; IC 27-1-29.1-9; IC 27-1-29.1-22; IC 34-6-2-110

Sec. 1. The following definitions apply throughout this rule:

(1) "Additional assessments" means any assessments made in excess of those paid by the member or former member in order to meet the eligibility requirements of IC 27-1-29-11, IC 27-1-29-12, IC 27-1-29.1-9, and IC 27-1-29.1-22.

(2) "Assessment" means the assessment set forth in IC 27-1-29-12 or IC 27-1-29.1-22.

(3) "Capitalization" means the annual surcharge set forth in IC 27-1-29-7(b)(10).

(4) "Catastrophic liability fund" means the political subdivision catastrophic liability fund established by IC 27-1-29.1.

(5) "Commission" means the Indiana political subdivision risk management commission established by IC 27-1-29-5.

(6) "Commissioner" means the commissioner of the Indiana department of insurance.

(7) "Member" means a political subdivision that is a member of the risk management fund or the catastrophic liability fund.

(8) "Political subdivision" has the meaning set forth in IC 34-6-2-110.

(9) "Risk management fund" means the political subdivision risk management fund established by IC 27-1-29.

(Indiana Political Subdivision Risk Management Commission; 762 IAC 2-1-1; filed Sep 3, 2002, 3:34 p.m.: 26 IR 27)

762 IAC 2-1-2 Membership
Authority: IC 27-1-29-16; IC 27-1-29.1-20
Affected: IC 27-1-29-4; IC 27-1-29.1

Sec. 2. (a) A political subdivision that applies to become a member of the risk management fund or the catastrophic liability fund may become a member after the following occurs:

(1) An application is filed with the manager or vendor of the risk management fund and the catastrophic liability fund.

(2) The manager or vendor provides the commission with twelve (12) copies of the application.

(3) The commission votes, by a majority, to accept the political subdivision as a member of the risk management fund or the catastrophic liability fund.

(4) The political subdivision pays the assessment and capitalization.

(b) A member of the risk management fund or the catastrophic liability fund that wishes to withdraw from the fund or funds shall file a written notice of its intent to withdraw with the commissioner. The written notice shall include all of the following:

(1) The date of termination of the membership. The date shall not be less than ninety (90) days after filing of the notice.

(2) The name, address, and state of domicile of the insurer with which the political subdivision is insuring the risk after termination of its membership.

(3) The name and business address of the insurance producer through whom the new policy of insurance was procured.

(c) At any time prior to the termination date of membership, a member may rescind its intent to withdraw from the risk management fund or the catastrophic liability fund by filing written notice of its intent with the commissioner.
(Indiana Political Subdivision Risk Management Commission; 762 IAC 2-1-2; filed Sep 3, 2002, 3:34 p.m.: 26 IR 27)

762 IAC 2-1-3 Assessments
Authority: IC 27-1-29-16; IC 27-1-29.1-20
Affected: IC 27-1-29-4; IC 27-1-29.1

Sec. 3. (a) In any twelve (12) month period, no additional assessment shall exceed one hundred percent (100%) of the assessment paid by the member for the last twelve (12) month period in which it was a member.

(b) Notwithstanding subsection (a), a member may voluntarily pay the full amount of any additional assessment at any time.

(c) Members' assessments and capitalization are due no later than the first day of renewal for each year. *(Indiana Political Subdivision Risk Management Commission; 762 IAC 2-1-3; filed Sep 3, 2002, 3:34 p.m.: 26 IR 27)*

762 IAC 2-1-4 Failure to pay assessment
Authority: IC 27-1-29-16; IC 27-1-29.1-20
Affected: IC 27-1-29-4; IC 27-1-29.1

Sec. 4. (a) If a member fails to pay an assessment or capitalization, the commission may do either of the following:
(1) Send a notice of coverage cancellation to the delinquent member providing a minimum of ten (10) days notice before the cancellation is effective.
(2) Assess the interest specified by statute on any outstanding balance.

(b) If a member fails to provide information identified by the commission as necessary for underwriting within ten (10) business days of the member's renewal date the commission may issue a notice of coverage cancellation. Such a cancellation shall be mailed certified mail and shall be effective twenty (20) business days after receipt of the notice by the member.

(c) If a member fails to pay an assessment or a capitalization for longer than sixty (60) days, the commission may give written notice to any state agency, including, but not limited to, the treasurer or auditor, of the political subdivision's default on the payment of an assessment or capitalization under this rule. Upon receipt of such notice, any state agency holding money payable to the delinquent political subdivision shall withhold the delinquent amount therefrom and pay the delinquent amount to the commission. The commission shall apply any such payments to the delinquent assessment or capitalization.

(d) In the event a member withdraws from the risk management fund or the catastrophic liability fund, there shall be no return of any assessment paid prior to the effective of the termination. *(Indiana Political Subdivision Risk Management Commission; 762 IAC 2-1-4; filed Sep 3, 2002, 3:34 p.m.: 26 IR 28)*

LSA Document #02-24(F)
Notice of Intent Published: 25 IR 1672
Proposed Rule Published: April 1, 2002; 25 IR 2301
Hearing Held: May 2, 2002
Approved by Attorney General: August 21, 2002
Approved by Governor: August 27, 2002
Filed with Secretary of State: September 3, 2002, 3:34 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #02-12(F)

DIGEST

Adds 844 IAC 4-4.5 concerning requirements for licensure to practice medicine or osteopathic medicine. Adds 844 IAC 4-6-2.1 concerning mandatory renewal notice. Repeals 844 IAC 4-1-1, 844 IAC 4-4.1-1, 844 IAC 4-4.1-2, 844 IAC 4-4.1-3.1, 844 IAC 4-4.1-4.1, 844 IAC 4-4.1-5, 844 IAC 4-4.1-6, 844 IAC 4-4.1-7, 844 IAC 4-4.1-8, 844 IAC 4-4.1-9, 844 IAC 4-4.1-10, 844 IAC 4-4.1-11, 844 IAC 4-5-1, 844 IAC 4-6-2, 844 IAC 4-6-5, 844 IAC 4-6-8, and 844 IAC 4-7-5. Effective 30 days after filing with the secretary of state.

844 IAC 4-1-1
844 IAC 4-4.1-1
844 IAC 4-4.1-2
844 IAC 4-4.1-3.1
844 IAC 4-4.1-4.1
844 IAC 4-4.1-5
844 IAC 4-4.1-6
844 IAC 4-4.1-7
844 IAC 4-4.1-8
844 IAC 4-4.1-9
844 IAC 4-4.1-10
844 IAC 4-4.1-11
844 IAC 4-4.5
844 IAC 4-5-1
844 IAC 4-6-2
844 IAC 4-6-2.1
844 IAC 4-6-5
844 IAC 4-6-8
844 IAC 4-7-5

SECTION 1. 844 IAC 4-4.5 IS ADDED TO READ AS FOLLOWS:

Rule 4.5. Licensure to Practice

844 IAC 4-4.5-1 Available licenses and permits
Authority: IC 25-1-8-2; IC 25-22.5-2-7
Affected: IC 25-22.5-2

Sec. 1. An applicant may apply for the following:
(1) Unlimited license to practice medicine or osteopathic medicine by:
(A) examination; or
(B) endorsement.
(2) A temporary medical permit for an applicant who is applying for unlimited licensure by endorsement.
(3) A temporary medical permit for postgraduate training.
(4) A temporary medical teaching permit.
(5) A limited scope temporary medical permit for an applicant who holds an unrestricted license to practice in another state.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 28)

844 IAC 4-4.5-2 Licenses and permits issued for general practice only

Authority: IC 25-1-8-2; IC 25-22.5-2-7
Affected: IC 25-22.5-2

Sec. 2. A medical license issued by Indiana is for the general practice of medicine. Regardless of the applicant's certification by a specialty board, neither a license nor a permit shall be issued unless the applicant has fulfilled the general licensure requirements of IC 25-22.5 and this article. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-2; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-3 Approved medical schools

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-2-7

Sec. 3. (a) An approved school of medicine or school of osteopathic medicine is one located within the United States, its possessions, or Canada and is recognized by either:

(1) the Liaison Committee on Medical Education, which is jointly sponsored by the American Medical Association (AMA) and the Association of American Medical Colleges (AAMC); or

(2) the American Osteopathic Association (AOA) Bureau of Professional Education.

(b) In order to be approved by the board for the purpose of obtaining a license or permit, a school of medicine or school of osteopathic medicine located outside of the United States, its possessions, or Canada must maintain standards equivalent to those adopted by:

(1) the Liaison Committee on Medical Education, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. degree, 2001; or

(2) the Bureau of Professional Education of the American Osteopathic Association, Accreditation of Colleges of Osteopathic Medicine, 2001.

(c) A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

(1) The LCME Secretariat, American Medical Association, 515 North State Street, Chicago, Illinois 60610.

(2) The Bureau of Professional Education of the American Osteopathic Association, 142 East Ontario Street, Chicago, Illinois 60611.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-3; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-4 Approved postgraduate (internship and residency) programs

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-2-7

Sec. 4. An approved internship or residency program is one that was, at time the applicant was enrolled in the internship or residency program accepted by the:

(1) Accreditation Council for Graduate Medical Education;

(2) Executive Committee of the Council on Postdoctoral Training of the American Osteopathic Association; or

(3) Royal College of Physicians and Surgeons of Canada.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-4; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-5 Authentic documents required

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-2-7

Sec. 5. All documents required by law to be submitted to the board shall be originals or certified copies thereof. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-5; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-6 Burden of proof

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-2-7

Sec. 6. Every applicant for licensure or temporary medical permit shall demonstrate that the applicant meets all of the qualifications required by Indiana statutes and by the rules of the board. In any proceeding before the board the burden of proof shall be on the applicant. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-6; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-7 Application for a license

Authority: IC 25-22.5-2-7
Affected: IC 25-1-8-2; IC 25-22.5-6-2.1

Sec. 7. (a) A person seeking licensure to practice medicine or osteopathic medicine shall file an application on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a license shall provide the following:

(1) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change must be submitted with the application.

(2) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing of the application.

(3) A certified copy of the original medical school or osteopathic medical school diploma. The following are requirements in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(4) If the applicant is the graduate of a school of medicine or osteopathic medicine in the United States, its possessions, or Canada, an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred must be submitted. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript.

(5) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript. If an original transcript is not available, the applicant must submit the following:

(A) A notarized or certified copy of the original medical school or osteopathic medical school transcript, which must include the degree conferred and the date the degree was conferred.

(B) An affidavit fully and clearly stating the reasons that an original transcript is not available.

(6) If the applicant has been convicted of a criminal offense (excluding minor traffic violations), the applicant shall submit a notarized statement detailing all criminal offenses (excluding minor traffic violations) for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(7) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit a notarized copy of a certificate issued to the applicant by the Educational Commission on Foreign Medical Graduates.

(8) All applicants who are now, or have been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(9) The applicant shall submit a self-query form completed by the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

(10) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-7; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-8 Licensure by examination

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 8. An applicant for licensure by examination must:

(1) Pass Steps I, II, and III of the United States Medical Licensing Examination or pass Steps I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination.

(2) Meet the requirements of IC 25-22.5.

(3) Meet the requirements of this article.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-8; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)

844 IAC 4-4.5-9 Licensure by endorsement

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3; IC 25-22.5-5-2; IC 25-22.5-6

Sec. 9. (a) In addition to complying with section 7 of this rule, an applicant for licensure by endorsement shall submit proof that the applicant satisfactorily completed the written examination provided by the:

(1) National Board of Medical Examiners (NBME);

(2) National Board of Osteopathic Medical Examiners (NBOME); or

(3) Federation of State Medical Boards of the United States, Inc. (FSMB).

(b) Acceptable examinations provided by an entity under subsection (a) are as follows:

(1) NBME.

(2) NBOME.

(3) Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(4) Federation of State Medical Boards of the United States (FLEX).

(5) United States Medical Licensing Examination (USMLE).

(c) Endorsement from states requiring the NBME, NBOME, or FLEX will be honored if the examination was taken and passed in a manner that was, in the opinion of

the board, equivalent in every respect to Indiana's examination requirements at the time it was taken.

(d) Endorsement from states requiring the USMLE or COMLEX-USA for licensure will be honored if the examination requirements of the other state are equivalent to the requirements of section 12 or 13 of this rule.

(e) Licensure by endorsement may be granted to an applicant who obtained a license in another state before the FLEX, NBME, USMLE, or COMLEX-USA were used in that state if the applicant:

(1) took an examination equivalent in every respect to Indiana's examination requirements at the time it was taken in another state; and

(2) meets all of the other requirements of the board under IC 25-22.5 and this article.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-9; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)

844 IAC 4-4.5-10 Requirements for taking the United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 10. (a) In order to qualify to take Step III of the United States Medical Licensing Examination (USMLE), a graduate of a medical school in the United States, its possessions, or Canada must submit proof of the following:

(1) Completion of the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine and graduation from a medical school or osteopathic medical school approved by the board.

(2) Passage of both Steps I and II of the USMLE.

(3) Completion, or expected completion within six (6) months, of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the USMLE, a graduate of a medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

(1) Passage of both Steps I and II of the USMLE.

(2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.

(3) Certification by the Educational Commission on Foreign Medical Graduates.

(4) Passing such other examinations as may be required by the board.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-10; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)

844 IAC 4-4.5-11 Requirements for taking the Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 11. (a) In order to qualify to take Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA), a graduate of an osteopathic medical school in the United States, its possessions, or Canada must submit proof of the following:

(1) Completion of the academic requirements for the degree of doctor of osteopathic medicine and graduation from an osteopathic medical school approved by the board.

(2) Passage of both Steps I and II of the COMLEX-USA.

(3) Completion of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the COMLEX-USA, a graduate of an osteopathic medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

(1) Passage of both Steps I and II of the United States Medical Licensing Examination.

(2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.

(3) Certification by the Educational Commission on Foreign Medical Graduates.

(4) Passing such other examinations as may be required by the board.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-11; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)

844 IAC 4-4.5-12 Passing requirements for United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 12. The following are the examination passing requirements for licensure:

(1) A score of seventy-five (75) is the minimum passing score for Step III of the United States Medical Licensing Examination (USMLE).

(2) An applicant may have a maximum of five (5) attempts to pass each step of the USMLE. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.

(3) All steps of the USMLE must be taken and success-

fully passed within a seven (7) year time period. This seven (7) year period begins when the applicant first takes a step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, previous attempts on the National Board Medical Examination and the examination of the Federation of State Medical Boards of the United States are included.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-12; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)

844 IAC 4-4.5-13 Passing requirements for Comprehensive Osteopathic Medical Licensing Examination

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 13. The following are the examination passing requirements for licensure:

(1) A score of three hundred fifty (350) is the minimum passing score for Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(2) An applicant may have a maximum of five (5) attempts to pass each step of the COMLEX-USA. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.

(3) All steps of the COMLEX-USA must be taken and passed in sequential order within a seven (7) year time period. This seven (7) year period begins when the applicant first takes Step I. In counting the number of attempts regarding COMLEX-USA steps, previous attempts on the National Board Osteopathic Medical Examination are included.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-13; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)

844 IAC 4-4.5-14 Temporary permits for endorsement applicants

Authority: IC 25-22.5-2-7
Affected: IC 25-1-8-2; IC 25-22.5-5-2

Sec. 14. (a) An applicant seeking a temporary permit to practice medicine or osteopathic medicine based upon licensure in another state of the United States, its possessions, or Canada shall file an application for licensure and a temporary permit on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a temporary medical permit shall submit the following:

(1) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application.

(2) Proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state of the United States, its possessions, or Canada.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in effect for a period not to exceed ninety (90) days.

(e) If the application for licensure under IC 25-22.5-5-2 is denied, the temporary permit becomes null and void immediately upon denial.

(f) If an extension of the temporary permit past ninety (90) days is required due to an incomplete license application file, the request for an extension of time must be submitted in writing (via letter, facsimile transmission, or electronic mail transmission) to the director of the board and received prior to the expiration date of the temporary medical permit. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-14; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)*

844 IAC 4-4.5-15 Temporary medical permits for postgraduate training

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 15. (a) A temporary medical permit issued for postgraduate medical education or training shall include internships, transitional programs, residency training, or other postgraduate medical education in a medical institution or hospital located in Indiana that meets the requirements of section 4 of this rule. A temporary medical permit for postgraduate training may be issued to a person who has:

(1) completed the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine from a medical school or osteopathic medical school approved by the board;

(2) submitted an application for a temporary medical permit;

(3) submitted one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application;

(4) paid the nonrefundable fee specified in 844 IAC 4-2-2; and

(5) provided documented evidence of acceptance into a postgraduate medical education or training program located in Indiana which meets the requirements of section 4 of this rule.

(b) Graduates of a school outside of the United States, its possessions, or Canada must submit proof of certification by the Educational Commission on Foreign Medical Graduates.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in force and effect for a period of one (1) year. A temporary medical permit issued under this section may be renewed for an additional one (1) year period, provided that the applicant submits an application and pays the nonrefundable fee. Temporary medical permits issued under this section to persons having passed Steps I and II of the United States Medical Licensing Examination (USMLE) or Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination (COMLEX-USA), and who have failed Step III of the USMLE or the COMLEX-USA may be renewed and reissued to the applicant, at the discretion of the board.

(e) After seven (7) years expires from the date when the applicant first took a step of the USMLE or the COMLEX-USA, the temporary permit becomes invalid without further action of the board and cannot be renewed.

(f) A temporary medical permit issued under this section shall limit the applicant's practice of medicine or osteopathic medicine to the postgraduate medical education or training program in a medical education institution or hospital in Indiana approved by the board in which the applicant is employed, assigned, or enrolled, which limitation shall be stated on the face of the temporary medical permit.

(g) If training will occur in more than one (1) facility, the applicant must submit with the application for a temporary medical permit identifying information for each facility in which training will occur.

(h) A person issued a temporary medical permit under this section shall not accept, receive, or otherwise be employed or engaged in any employment as a physician unless approved by, or otherwise made a part or adjunct of, the applicant's postgraduate medical education or training program. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-15; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)*

844 IAC 4-4.5-16 Temporary medical permits for teaching in an accredited medical school

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 16. (a) A medical educational institution located in Indiana may apply for a temporary medical permit for teaching for a practitioner in the active practice of medicine outside of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution. The institution and the practitioner shall file an application, which shall include the following:

(1) Documentation certifying the person's professional qualifications.

(2) The term of the teaching appointment.

(3) The medical subjects to be taught.

(4) One (1) recent passport-type photograph of the person, taken within eight (8) weeks prior to filing the application.

(5) The nonrefundable fee specified in 844 IAC 4-2-2.

(b) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) A temporary medical teaching permit issued under this section shall authorize the practitioner to teach medicine in the institution for a stated period not to exceed one (1) year.

(d) The temporary medical teaching permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the practitioner has ceased teaching in the institution.

(e) The permit authorizes the practitioner to practice in the institution only and, in the course of teaching, to practice those medical or osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the practitioner to practice medicine or osteopathic medicine otherwise. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-16; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33)*

844 IAC 4-4.5-17 Limited scope temporary medical permits

Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 17. (a) A person not currently licensed to practice medicine in Indiana, yet licensed to practice medicine or osteopathic medicine by any board or licensing agency of any state or jurisdiction may make application for a limited scope temporary medical permit that, if issued under this section, shall remain valid for a nonrenewable period not to exceed thirty (30) days.

(b) A person seeking a limited scope temporary medical permit under this section shall do the following:

(1) Complete an application form supplied by the board, specifying the following:

(A) The reasons for seeking a temporary medical permit.

(B) The location or locations where the applicant will provide medical services.

(C) The type, extent, and specialization of medical services that the applicant intends to, or may, provide.

(D) The activity, organization, function, or event with regard to which the applicant may provide medical services.

(2) The applicant's residence and office addresses and phone numbers.

(3) Pay to the board the nonrefundable fee specified by 844 IAC 4-2-2, at the time the application for temporary medical permit is filed.

(4) Submit one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application, simultaneously with filing the application for a temporary medical permit.

(5) Submit proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state or jurisdiction.

(6) Submit a certified copy of the original medical school or osteopathic medical school diploma. The following requirements apply in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) Temporary medical permits issued under this section shall be limited to a specific activity, function, series of events, or purpose, and to a specific geographical area within the state, which limitations shall be stated on the temporary medical permit. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-17; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33)*

844 IAC 4-4.5-18 Temporary medical permits; discipline
Authority: IC 25-22.5-2-7
Affected: IC 25-1-9; IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 18. A temporary medical permit issued under this rule may be sanctioned for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5 or IC 25-1-9. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-18; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.5-19 Notice of address change
Authority: IC 25-22.5-2-7
Affected: IC 25-22.5-2-7

Sec. 19. (a) Every person issued a permit or license shall inform the board of the following in writing by mail, facsimile transmission, or electronic mail transmission:

(1) Each address where he or she is practicing medicine or osteopathic medicine within twenty (20) days after commencing such practice.

(2) All changes of address, including additional practice locations and residential addresses, or removals from such addresses within twenty (20) days of each such occurrence.

(b) Where the practitioner has more than one (1) address, the practitioner must notify the board which of the addresses is the practitioner's primary mailing address.

(c) A practitioner's failure to receive notification of licensure of permit renewal due to a failure to notify the board of a change of address shall not constitute an error on the part of the board nor shall it exonerate or otherwise excuse the practitioner from renewing such license or permit as required by law. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-19; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

SECTION 2. 844 IAC 4-6-2.1 IS ADDED TO READ AS FOLLOWS:

844 IAC 4-6-2.1 Mandatory renewal; notice
Authority: IC 25-22.5-2-7
Affected: IC 25-22.5

Sec. 2.1. (a) On or before sixty (60) days prior to June 30 of odd-numbered years, the board, or its duly authorized agent, shall issue a notice of expiration to each holder of a license that the holder is required to renew the holder's license.

(b) This notice will be sent to the address of record. If the practitioner has moved since the last renewal and has not notified the board of the new address, the board is not responsible for the untimely renewal of said license or its subsequent denial. *(Medical Licensing Board of Indiana; 844 IAC 4-6-2.1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34)*

SECTION 3. THE FOLLOWING ARE REPEALED: 844 IAC 4-1-1; 844 IAC 4-4.1-1; 844 IAC 4-4.1-2; 844 IAC 4-4.1-3.1; 844 IAC 4-4.1-4.1; 844 IAC 4-4.1-5; 844 IAC 4-4.1-6; 844 IAC 4-4.1-7; 844 IAC 4-4.1-8; 844 IAC 4-4.1-9; 844 IAC 4-4.1-10; 844 IAC 4-4.1-11; 844 IAC 4-5-1; 844 IAC 4-6-2; 844 IAC 4-6-5; 844 IAC 4-6-8; 844 IAC 4-7-5.

LSA Document #02-12(F)
Notice of Intent Published: 25 IR 1672
Proposed Rule Published: April 1, 2002; 25 IR 2302
Hearing Held: June 27, 2002
Approved by Attorney General: August 21, 2002
Approved by Governor: August 28, 2002
Filed with Secretary of State: September 3, 2002, 3:38 p.m.
Incorporated Documents Filed with Secretary of State: Liaison Committee on Medical Education, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. Degree, May 2001; Bureau of Professional Education of the American Osteopathic Association, Accreditation of Colleges of Osteopathic Medicine, 2001.

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

LSA Document #02-18(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #02-18(F), printed at 25 IR 3702:

In 11 IAC 2-5-4, on page 2 of the original document (25 IR 3702), after "remove", insert "the following".

Filed with Secretary of State: August 30, 2002, 9:58 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-175(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-175(F), printed at 25 IR 2726:

(1) In 405 IAC 2-3-1.2(b)(1)(A), on page 1 of the original document (25 IR 2726), delete "; or" and insert ".".

(2) In 405 IAC 2-3-1.2(c), on page 1 of the original document (25 IR 2726), delete "comply with (b)(3)" and insert "comply with subsection (b)(3)".

Filed with Secretary of State: August 22, 2002, 3:12 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-372(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-372(F), printed at 25 IR 2726:

(1) In 405 IAC 5-24-4(b), on page 1 of the original document (25 IR 2727), delete "one (1) of the following".

(2) In 405 IAC 5-24-4(b)(1), on page 1 of the original document (25 IR 2727), after "(86.5%);", insert "or".

Filed with Secretary of State: August 22, 2002, 3:11 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-393(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-393(F), printed at 25 IR 3114:

(1) In 405 IAC 2-9-1(b), on page 2 of the original document (25 IR 3115), delete "above referenced Medicaid categories" and insert "Medicaid categories referenced in subsection (a)".

(2) In 405 IAC 2-9-1(c), on page 2 of the original document (25 IR 3115), delete "age sixty-five (65)" and insert "sixty-five (65) years of age".

(3) In 405 IAC 2-9-1(e)(1), on page 2 of the original document (25 IR 3115), after "specified in", insert "405".

(4) In 405 IAC 2-9-2(b)(3), on page 3 of the original document (25 IR 3116), after "described in", insert "subdivision".

(5) In 405 IAC 2-9-2(b)(4), on page 3 of the original document (25 IR 3116), delete "listed below:" and insert "as follows:".

(6) In 405 IAC 2-9-2(b)(4)(B), on page 4 of the original document (25 IR 3116), after "As used in this", delete "subparagraph" and insert "clause".

(7) In 405 IAC 2-9-3(a)(8), on page 6 of the original document (25 IR 3117), after "If the resulting amount in", insert "subdivision".

(8) In 405 IAC 2-9-3(b), on page 6 of the original document (25 IR 3117), after "The income standard referenced in", insert "subsection".

(9) In 405 IAC 2-9-3(c), on page 6 of the original document (25 IR 3117), after "subsection (a)", delete "of this section".

(10) In 405 IAC 2-9-4(c)(8)(C), on page 7 of the original document (25 IR 3118), delete "age 18" and insert "eighteen (18) years of age".

(11) In 405 IAC 2-9-5(b), on page 9 of the original document (25 IR 3119), delete "405 IAC 2-9-7" and insert "section 7 of this rule".

(12) In 405 IAC 2-9-5(b), on page 9 of the original document (25 IR 3119), after "must be employed as defined in", insert "subsection".

(13) In 405 IAC 2-9-5(b), on page 9 of the original document (25 IR 3119), after "unless the provisions in", insert "subsection".

(14) In 405 IAC 2-9-5(c)(1), on page 9 of the original document (25 IR 3119), after "employment as defined in", insert "subsection".

(15) In 405 IAC 2-9-5(c)(2), on page 9 of the original document (25 IR 3119), delete "below".

(16) In 405 IAC 2-9-5(d), on page 9 of the original document (25 IR 3119), delete "subdivision" and insert "subsection".

Filed with Secretary of State: August 22, 2002, 3:14 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #01-243(AC)(2)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-243(F), printed at 25 IR 3743:

(1) In 410 IAC 6-7.1-23(e)(1), on page 4 of the original document (25 IR 3745), after "finished grade;", insert "or".

(2) In 410 IAC 6-7.1-27(b)(4), on page 7 of the original document (25 IR 3747), delete "thirty" and insert "thirty-five".

(3) In 410 IAC 6-7.2-23(a), on page 14 of the original document (25 IR 3752), after "(100) feet of", delete "of".

(4) In 410 IAC 6-7.2-25(f)(1), on page 16 of the original document (25 IR 3753), after "or finished grade;", insert "or".

Filed with Secretary of State: August 19, 2002, 1:57 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

LSA Document #01-281(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #01-281(F), printed at 25 IR 2728:

In 412 IAC 2-1-9(a)(12), on page 6 of the original document (25 IR 2730), after "burn,", insert "or".

Filed with Secretary of State: August 19, 2002, 1:56 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

LSA Document #01-422(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #01-422(F), printed at 25 IR 3125:

In 431 IAC 1.1-1-2(9)(B), on page 3 of the original document (25 IR 3126), after "under this subdivision", delete "(9)".

Filed with Secretary of State: August 22, 2002, 3:13 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #01-212(AC)

Under IC 4-22-2-38, corrects the following typographical error in LSA Document #01-212(F), printed at 25 IR 2231:

In 511 IAC 6.1-1-11.5(a)(2), on page 9 of the original document (25 IR 2236), delete "511 IAC 6.2.6.5" and insert "511 IAC 6.2-6-5".

Filed with Secretary of State: August 30, 2002, 10:00 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 515 PROFESSIONAL STANDARDS BOARD

LSA Document #01-171(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #01-171(F), printed at 25 IR 3174:

(1) In 515 IAC 1-6-2(b), on page 2 of the original document (25 IR 3174), delete "professional standards".

(2) In 515 IAC 1-6-2(i)(1), on page 2 of the original document (25 IR 3174), delete "; and" and insert ".".

(3) In 515 IAC 1-6-2(n), on page 2 of the original document (25 IR 3175), delete "in this rule".

(4) In 515 IAC 1-6-2, on page 2 of the original document (25 IR 3175), redesignate subsection "(n)" as "(p)", "(o)" as "(n)", and "(p)" as "(o)" to maintain alphabetical order.

(5) In 515 IAC 1-6-3(e), on page 3 of the original document (25 IR 3175), after "515 IAC 1-2 or", delete "under".

(6) In 515 IAC 1-6-4(1), on page 3 of the original document (25 IR 3175), after "(1)", delete "; or" and insert ".".

(7) In 515 IAC 1-6-5(a), on page 4 of the original document (25 IR 3175), after "required professional", insert "515".

(8) In 515 IAC 1-6-5(b)(2), on page 4 of the original document (25 IR 3175), delete "; or" and insert ".".

(9) In 515 IAC 1-6-5(e)(1), on page 4 of the original document (25 IR 3176), delete "; and" and insert ".".

(10) In 515 IAC 1-6-6(f)(1), on page 4 of the original document (25 IR 3176), delete "; or" and insert ".".

(11) In 515 IAC 1-6-7(a)(1), on page 4 of the original document (25 IR 3176), delete "; or" and insert ".".

(12) In 515 IAC 1-6-7(b), on page 5 of the original document (25 IR 3176), delete "professional standards".

(13) In 515 IAC 1-6-8(a), on page 5 of the original document (25 IR 3176), delete "professional standards".

(14) In 515 IAC 1-6-8(b), on page 5 of the original document (25 IR 3176), delete "professional standards".

Filed with Secretary of State: August 22, 2002, 12:38 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 515 PROFESSIONAL STANDARDS BOARD

LSA Document #02-7(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-7(F), printed at 25 IR 3176:

(1) In 515 IAC 3-1-1(a)(1), on page 1 of the original document (25 IR 3176), delete "W." and insert "West".

(2) In 515 IAC 3-1-1(a)(1), on page 1 of the original document (25 IR 3176), delete "IN" and insert "Indiana".

(3) In 515 IAC 3-1-1(a)(2), on page 1 of the original document (25 IR 3177), delete "W." and insert "West".

(4) In 515 IAC 3-1-1(a)(2), on page 1 of the original document (25 IR 3177), delete "IN" and insert "Indiana".

(5) In 515 IAC 3-1-2(a), on page 2 of the original document (25 IR 3177), after "Sec. 2. (a)", insert "As used".

(6) In 515 IAC 3-1-2(a), on page 2 of the original document (25 IR 3177), delete "a" and insert ",".

(7) In 515 IAC 3-1-3(b)(2), on page 3 of the original document (25 IR 3177), delete "515 IAC 3-1-3" and insert "this section".

Filed with Secretary of State: August 22, 2002, 12:40 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #01-430

Under IC 4-22-2-40, LSA Document #01-430, printed at 25 IR 2031, is recalled.

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #01-399

Under IC 4-22-2-40, LSA Document #01-399, printed at 25 IR 2575, is recalled.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-366

Under IC 4-22-2-41, LSA Document #01-366, printed at 25 IR 1200, is withdrawn.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-185

Under IC 4-22-2-41, LSA Document #02-185, printed at 25 IR 3209, is withdrawn.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-252(E)

DIGEST

Amends 65 IAC 3-3 concerning retailer contracts. Amends 65 IAC 3-4 concerning retailer operations. Effective August 29, 2002.

65 IAC 3-3-3 **65 IAC 3-4-4**
65 IAC 3-3-10 **65 IAC 3-4-5**

SECTION 1. 65 IAC 3-3-3 IS AMENDED TO READ AS FOLLOWS:

65 IAC 3-3-3 Award of contracts
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 3. (a) The commission shall contract ~~separately~~ with retailers for the sale of instant tickets and for the sale of on-line tickets and pull-tab tickets. A retailer contract for the sale of on-line tickets or pull-tab tickets may be in the form of an amendment to a retailer contract for the sale of instant tickets, or all of the contracts for a single retailer may be combined into one (1) or more documents.

(b) The commission shall enter into contracts with retailers for instant games for periods of not less than one (1) year. Contracts for instant games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for instant games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

(c) The commission shall contract with each retailer for on-line games for a period of not less than one (1) year. Contracts for on-line games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for on-line games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

(d) A retailer contract for pull-tab games initially executed by the commission shall expire on the same date as the expiration of the retailer's contract for instant games. Thereafter, the commission shall contract with each retailer for pull-tab games for a period of not less than one (1) year, with the contract term beginning and ending on the same dates as the retailer's contract for instant games. Contracts for pull-tab games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for pull-tab games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission. *(State Lottery Commission; 65 IAC 3-3-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1069; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1735; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1035; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1970; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 40, eff Aug 29, 2002)*

SECTION 2. 65 IAC 3-3-10 IS AMENDED TO READ AS FOLLOWS:

65 IAC 3-3-10 Retailer contracts for pull-tab games
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 10. (a) This section applies only to retailer contracts for the sale of pull-tab tickets.

(b) Any person interested in obtaining a certificate of authority for the sale of pull-tab tickets shall first file an application on such form or forms as may be approved by the director.

(c) Each applicant shall submit an application indicating each proposed lottery ticket sales location. The applicant must first be a licensed retailer of instant tickets or simultaneously apply to be a licensed retailer of instant tickets. **Notwithstanding the foregoing, the director may, at the director's discretion, authorize an applicant to sell only pull-tab games from its lottery ticket sales location.**

(d) Each location for which an application is submitted must be a fixed location.

(e) Applications and subsequent retailer contracts, if any, are not transferable to any person or to any other location.

(f) The commission may enter into a single retailer contract with a retailer to sell pull-tab and instant tickets.

(g) Any person that seeks a retailer contract as a retailer for pull-tab tickets shall bear the burden of securing approval of any other person, board, commission, agency, agent, instrumentality, or political subdivision of the state or the United States which may have controlling authority over the applicant. *(State Lottery Commission; 65 IAC 3-3-10; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1037; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1972; emergency rule filed Jan 12, 1994, 5:00 p.m.: 17 IR 1110; errata filed Mar 18, 1994, 9:30*

a.m.: 17 IR 1889; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 40, eff Aug 29, 2002)

SECTION 3. 65 IAC 3-4-4 IS AMENDED TO READ AS FOLLOWS:

65 IAC 3-4-4 Procedure for awarding prizes
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 4. (a) Upon the presentation of a lottery ticket for prize payment, the retailer shall verify that it is visually consistent with the features of a winning ticket and examine it for any alteration. A retailer shall not make any payment on a ticket which is not a valid instant ticket within the meaning of 65 IAC 4-1-14, a valid on-line ticket within the meaning of 65 IAC 5-1-12, or a valid pull-tab ticket within the meaning of 65 IAC 6-1-9.

(b) **Each instant, on-line, and pull-tab ticket shall contain a unique bar code.** A winning instant ticket, ~~or~~ on-line, **or pull-tab** ticket shall be further validated and redeemed in the following manner:

(1) ~~If an instant ticket is not bar coded and is entitled to an instant prize less than or equal to twenty-five dollars ($25), a retailer shall only redeem the instant ticket if it was sold at the retailer's location.~~

~~(2) If an instant ticket is bar coded and is~~ **If an instant ticket, on-line ticket, or pull-tab ticket is** entitled to ~~an instant~~ **a** prize of less than or equal to twenty-five dollars ($25), a retailer shall validate the instant ticket, **on-line ticket, or pull-tab ticket** as a winning ~~instant~~ **lottery** ticket with the bar code reader and shall redeem a valid winning instant ticket, **on-line ticket, or pull-tab ticket** notwithstanding the location at which the ticket was purchased.

~~(3) If an instant ticket is not bar coded and is entitled to an instant prize greater than twenty-five dollars ($25) and equal to or less than five hundred ninety-nine dollars ($599), a retailer shall only redeem the instant ticket after validating it as a winning instant ticket by calling the phone number designated by the director or, if the retailer is licensed to sell on-line tickets, by using the retailer's on-line terminal.~~

~~(4) If an instant ticket is bar coded and is entitled to an instant prize greater than twenty-five dollars ($25) and equal to or less than five hundred ninety-nine dollars ($599), a retailer shall only redeem the instant ticket after validating it as a winning instant ticket with the retailer's bar code reader.~~

~~(c) A retailer licensed to sell pull-tab tickets shall pay prizes on all valid winning pull-tab tickets purchased from the retailer.~~

(2) If an instant ticket, on-line ticket, or pull-tab ticket is entitled to a prize of less than or equal to six hundred dollars ($600), a retailer may, within its discretion, validate the instant ticket, on-line ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader and may redeem, within its discretion, a valid winning instant ticket, on-line ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.

~~(d)~~ **(c)** A retailer who does not sell instant tickets **but has a bar code reader issued by the commission** shall ~~no~~ redeem an instant ticket presented for prize payment. **A retailer who does not sell pull-tab tickets shall redeem a pull-tab ticket presented for prize payment.** A retailer who does not sell on-line tickets shall not redeem an on-line ticket presented for prize payment.

~~(e)~~ **(d)** The retailer shall pay any winning lottery ticket with a cash prize of twenty-five dollars ($25) or less in cash or new lottery tickets with the consent of the lottery ticket holder. Any winning lottery ticket with a cash prize exceeding twenty-five dollars ($25), but not exceeding ~~five hundred ninety-nine~~ **six hundred** dollars ~~($599),~~ **($600),** shall be paid with cash, check, or money order, at the retailer's discretion. Any noncash prize which a retailer is authorized to deliver shall be delivered in the manner required by the rule applicable to a specific lottery game or as specified by the director.

~~(f)~~ **(e)** Any validated winning lottery ticket ~~other than a pull-tab ticket~~ may be paid by check at the commission headquarters in Indianapolis, Indiana, or at a district claim center after the claimant has completed such winner claim forms as the commission may specify. ~~Except as otherwise determined by the director in the director's sole discretion, the commission shall have no responsibility for the payment of any prize in a pull-tab game, and the holder of a winning pull-tab ticket shall collect the prize respecting the ticket only from the retailer who sold the ticket.~~

~~(g)~~ **(f)** Winning lottery tickets received by a person under the age of eighteen (18) as a gift shall be paid by the commission to an adult member of the minor's family or the legal guardian of the minor as custodian.

~~(h)~~ **(g)** Holders of winning on-line tickets shall have the right to claim prizes for one hundred eighty (180) days after the drawing or the end of the lottery game or play in which the prize was won. Holders of winning instant game tickets **and pull-tab game tickets** shall have the right to claim instant prizes for sixty (60) days after the end of the instant game **or pull-tab game** in which the prize was won and shall have the right to claim telephone prizes for sixty (60) days after the telephone play in which the telephone prize was won. Winners of prizes awarded pursuant to ~~65 IAC 4-30-10~~ **65 IAC 4-3-10** shall have the right to claim those prizes for sixty (60) days after the prize is won, unless a longer or shorter period is determined and announced pursuant to that section. ~~Holders of winning pull-tab game tickets shall have the right to claim prizes only for the period specified in 65 IAC 6.~~ If a valid claim is not made for a prize within the applicable time period, the prize shall constitute

an unclaimed prize and the prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.

~~(i)~~ **(h)** Until such time as a name is imprinted or placed upon the back portion of the lottery ticket in the designated area, a lottery ticket shall be owned by the physical possessor of such ticket. When a name is placed on the rear of the ticket in the designated place, the person whose name appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. A pull-tab ticket remains at all times a bearer instrument and shall be owned by the physical possessor of the ticket **unless the prize is over six hundred dollars ($600) and space has been designated on the ticket for including winner information.**

~~(j)~~ **(i)** In the event it is determined that, for any reason, a prize was paid by a retailer on a ticket which was not a winner, the person whose name appears on the back of the ticket will be required to reimburse the retailer for said payment. If a retailer pays any claim which was not a winner, the retailer will be held responsible to the commission for the improper payment, even if the person whose name appears on the back of the ticket fails to reimburse the retailer or cannot be located.

~~(k)~~ **(j)** A lottery ticket will be considered void if altered, torn, misprinted, illegible, or damaged in such a manner that verification is impossible. If it is determined that a lottery ticket contains a manufacturing defect which makes the lottery ticket appear to be a winner when in fact it is not, the bearer shall be entitled to reimbursement for the full purchase price of the lottery ticket but shall not be awarded any prize.

~~(l)~~ **(k)** The commission's decision and judgment in respect to the determination of a winning lottery ticket or of any other dispute arising from payment or awarding of prizes shall be final and binding upon all participants in the lottery unless otherwise provided by law or this article. In the event a question arises relative to a winning lottery ticket, or the payment or awarding of any prize, the commission may deposit the prize winnings into an escrow fund until it resolves the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy.

~~(m)~~ **(l)** The commission reserves the right to request of the claimant of any winning lottery ticket disclosure of the source of the ticket. *(State Lottery Commission; 65 IAC 3-4-4; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 102; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1737; emergency rule filed Oct 7, 1991, 2:00 p.m.: 15 IR 112; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1039; errata filed Feb 25, 1992, 11:00 a.m.: 15 IR 1222; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 77; errata, 16 IR 751; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 41, eff Aug 29, 2002)*

SECTION 4. 65 IAC 3-4-5 IS AMENDED TO READ AS FOLLOWS:

65 IAC 3-4-5 Compensation
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 5. (a) A retailer shall be entitled to a commission of five **and one-half** percent ~~(5%)~~ **(5.5%)** of the valid lottery ticket price of each instant ticket or ~~on-line~~ **pull-tab** ticket sold to such retailer, subject to deduction for returns as described in this article. A retailer shall be entitled to a commission of ~~seven~~ **six** percent ~~(7%)~~ **(6%)** of the valid ~~pull-tab~~ **on-line** ticket price of each ~~pull-tab~~ **on-line** ticket sold by such retailer.

(b) In addition to the commissions under subsection (a), the commission may, from time to time, establish retailer incentive programs whereby retailers are entitled to bonus payments by satisfying designated criteria which may include, but not limited to, volume of lottery tickets sales, number of lottery tickets redeemed, or the sale of winning lottery tickets.

(c) No retailer or employee of a retailer shall request, demand, or accept gratuities or similar compensation in exchange for the performance of duties authorized pursuant to the retailer's contract. *(State Lottery Commission; 65 IAC 3-4-5; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1040; emergency rule filed Jul 29, 1992, 10:00 a.m.: 15 IR 2599; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 42, eff Aug 29, 2002)*

SECTION 5. **SECTIONS 1 through 4 of this document take effect August 29, 2002.**

LSA Document #02-252(E)
Filed with Secretary of State: August 23, 2002, 1:27 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-253(E)

DIGEST

Amends 65 IAC 4-2 concerning instant games. Amends 65 IAC 5-2 concerning on-line games. Effective August 23, 2002.

65 IAC 4-2-4	**65 IAC 5-2-4**
65 IAC 4-2-8	**65 IAC 5-2-8**

SECTION 1. 65 IAC 4-2-4 IS AMENDED TO READ AS FOLLOWS:

65 IAC 4-2-4 Use of winner information and photographs
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. The commission shall have the right to use and publicize the name **and a photograph** of any winner in an instant ticket game, public information on the winner claim form, and the city, town, township, or any other political subdivision in which the winner resides. The commission ~~shall have the right to use and publicize a photograph of any~~ **may, in its sole discretion, require a** winner in an instant **ticket** game ~~with the permission of the winner.~~ to participate in interviews and press conferences with public relations personnel and media representatives. The commission shall not pay any additional consideration to any winner for use of such a photograph or information. Neither the commission, the director, nor any employee of the commission shall be liable for any use or release of information regarding, or photographs of, winners in compliance with this section. *(State Lottery Commission; 65 IAC 4-2-4; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 303; emergency rule filed Jun 8, 1993, 12:00 p.m.: 16 IR 2428; emergency rule filed Jan 12, 1994, 5:00 p.m.: 17 IR 1111; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:28 p.m.: 26 IR 42)*

SECTION 2. 65 IAC 4-2-8 IS AMENDED TO READ AS FOLLOWS:

65 IAC 4-2-8 Game regulations
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 8. The director, **or the director's designee,** is authorized to develop **and promulgate** game rules and procedures for specific instant games during the periods between meetings of the commission and to conduct instant games in accordance with such game rules and procedures prior to the adoption by the commission of **such** rules with respect to ~~such~~ specific instant games, provided that such ~~game~~ rules and procedures are posted in the principal office ~~and in each regional office~~ of the commission prior to the commencement of any game to which such game rules and procedures are applicable. ~~and provided that the director shall advise the games committee of the contents of such game rules and procedures. The games committee shall be composed of two (2) members of the commission.~~ The director, **or the director's designee,** shall report any such games conducted and the game rules and procedures for such games to the commission at its next meeting. *(State Lottery Commission; 65 IAC 4-2-8; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 409; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:28 p.m.: 26 IR 43)*

SECTION 3. 65 IAC 5-2-4 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-2-4 Use of winner information and photographs
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. The commission shall have the right to use and publicize the name **and a photograph** of any winner in an on-line game, public information on the winner claim form, and the city, town, township, or any other political subdivision in which the winner resides. The commission ~~shall have the right to use and publicize a photograph of any~~ **may, in its sole discretion, require a** winner in an on-line game ~~with the permission of the winner.~~ **to participate in interviews and press conferences with public relations personnel and media representatives.** The commission shall not pay any additional consideration to any winner for use of such a photograph or information. Neither the commission, the director, nor any employee of the commission shall be liable for any use or release of information regarding, or photographs of, winners in compliance with this section. *(State Lottery Commission; 65 IAC 5-2-4; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1741; emergency rule filed Jun 8, 1993, 12:00 p.m.: 16 IR 2428; emergency rule filed Jan 12, 1994, 5:00 p.m.: 17 IR 1111; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:28 p.m.: 26 IR 43)*

SECTION 4. 65 IAC 5-2-8 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-2-8 Game regulations
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 8. The director, **or the director's designee,** is authorized to develop and promulgate regulations and procedures for specific on-line games on behalf of the commission and to conduct on-line games in accordance with such regulations and procedures. The director, **or the director's designee,** shall advise the ~~games committee of the~~ commission of the contents of such regulations and procedures. The director, **or the director's designee,** shall report any such regulations promulgated to the commission at its next meeting. *(State Lottery Commission; 65 IAC 5-2-8; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1743; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:28 p.m.: 26 IR 43)*

LSA Document #02-253(E)
Filed with Secretary of State: August 23, 2002, 1:28 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-254(E)

DIGEST

Amends 65 IAC 5-12 concerning the Hoosier Lottery Powerball on-line game. Effective October 6, 2002.

65 IAC 5-12-2
65 IAC 5-12-3
65 IAC 5-12-4
65 IAC 5-12-5
65 IAC 5-12-6
65 IAC 5-12-7
65 IAC 5-12-9
65 IAC 5-12-10
65 IAC 5-12-11
65 IAC 5-12-12
65 IAC 5-12-12.5
65 IAC 5-12-14

SECTION 1. 65 IAC 5-12-2 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-2 Definitions
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2. (a) The definitions in this section shall apply throughout this rule.

(b) "Board" means an area of the play slip identified by an alphabetic character which contains two (2) panels of numbered squares to be marked by the player containing, respectively, ~~forty-nine (49)~~ **fifty-three (53)** squares numbered one (1) through ~~forty-nine (49)~~ **fifty-three (53)** and forty-two (42) squares numbered one (1) through forty-two (42).

(c) "Grand prize" means the prize awarded pursuant to section 8 of this rule.

(d) "Match 5 Bonus Prize" means the bonus prize available when the grand prize has reached a record level, as determined by MUSL, and monetary bonus prizes have been declared by the MUSL Powerball member lotteries pursuant to section 6(f) of this rule. The Match 5 Bonus Prize does not include the original amount won for matching the Powerball first set numbers.

~~(d)~~ **(e)** "MUSL" means an association of lottery commissions, state agencies, and other political subdivisions which are authorized to conduct lottery games.

~~(e)~~ **(f)** "MUSL Powerball receipts" means all receipts of MUSL Powerball member lotteries from the sale of Powerball tickets.

~~(f)~~ **(g)** "Panel" means the sections of each board on a play slip with the top panel containing ~~forty-nine (49)~~ **fifty-three (53)** numbered squares and the bottom panel containing forty-two (42) numbered squares.

~~(g)~~ **(h)** "Pari-mutuel prize" means a prize equal to the total amount of the prize pool available for prizes of that type divided by the total number of winners of that prize from among all MUSL Powerball member lotteries.

~~(h)~~ **(i)** "Play" means the six (6) numbers that appear as a single numbered selection on a valid lottery ticket for a Powerball selection event in the manner defined in section 4(b) of this rule.

~~(i)~~ **(j)** "Player" means an eligible person who participates in a Powerball selection event by purchasing an on-line ticket with one (1) or more plays.

~~(j)~~ **(k)** "Play slip" means a commission approved form containing one (1) or more boards that is used by a player to mark one (1) or more plays in **Hoosier Lottery** Powerball.

~~(k)~~ **(l)** "Powerball" means a game conducted by a MUSL product group of which the commission is a member and which may include the Power Play promotion.

~~(l)~~ **(m)** "Powerball first set numbers" means the first five (5) numbers in a play pursuant to section 4(b)(1) of this rule.

~~(m)~~ **(n)** "Powerball second set number" means the last number in a play pursuant to section 4(b)(2) of this rule.

~~(n)~~ **(o)** "Powerball selection event" means a drawing or other selection event conducted to determine the Powerball winning numbers.

~~(o)~~ **(p)** "Powerball winning numbers" means the six (6) numbers selected in a Powerball selection event that entitle the holders of on-line tickets containing those numbers to prizes set forth in section 9 of this rule.

~~(p)~~ **(q)** "Power Play number" means the number selected in a Power Play selection event.

~~(q)~~ **(r)** "Power Play option" means the purchase of an option to multiply a set prize won in a Powerball selection event during the Power Play promotion.

~~(r)~~ **(s)** "Power Play selection event" means a separate, random drawing or other selection event to determine the Power Play number from among a series of numbers set forth in section 12.5 of this rule.

~~(s)~~ **(t)** "Power Play promotion" means a promotional extension of the **Hoosier Lottery** Powerball **on-line** game as set forth in section 12.5 of this rule.

~~(t)~~ **(u)** "Quick pick" means a play randomly selected by a commission approved terminal.

~~(u)~~ **(v)** "Retailer" means a person, other than a state agency or political subdivision, who sells lottery tickets on behalf of the commission pursuant to a retailer contract.

~~(v)~~ **(w)** "Set prize" means any secondary prize in the Powerball **on-line** game (not the grand prize) and any prize arising out of the Power Play promotion. *(State Lottery Commission; 65 IAC 5-12-2; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1016, eff Nov 2, 1997; emergency rule filed Mar 2, 2001, 4:08 p.m.: 24 IR 2094; readopted filed Nov 30,*

2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 44, eff Oct 6, 2002)

SECTION 2. 65 IAC 5-12-3 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-3 Ticket price
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 3. The price of an on-line ticket in **the Hoosier Lottery** Powerball **on-line game** shall be one dollar ($1) for each play represented on the on-line ticket. *(State Lottery Commission; 65 IAC 5-12-3; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1016, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 45, eff Oct 6, 2002)*

SECTION 3. 65 IAC 5-12-4 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-4 Procedure for playing
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. (a) An on-line ticket for **the Hoosier Lottery** Powerball **on-line game** may represent one (1) or more plays and shall be purchased by one (1) of the following methods:

(1) The player may submit a completed play slip which contains one (1) or more hand marked boards to an authorized on-line retailer who shall generate the on-line ticket.

(2) The player may orally advise an authorized on-line retailer of the numbers contained in the player's plays, and the on-line retailer shall generate the on-line ticket.

(3) The player may request a quick pick of one (1) of the following types from an authorized on-line retailer who shall generate an on-line ticket:

(A) The player may specify the Powerball first set numbers and request a quick pick for the Powerball second set number; or

(B) The player may request a quick pick for the Powerball first set numbers and specify the Powerball second set number; or

(C) The player may request a quick pick for both the Powerball first set numbers and the Powerball second set number.

(4) The player may purchase a ticket from a player activated terminal.

(b) Each play in Hoosier Lottery Powerball shall consist of the following:

(1) Five (5) different numbers from one (1) to ~~forty-nine (49)~~ **fifty-three (53)** constituting the Powerball first set numbers.

(2) One (1) number from one (1) to forty-two (42), which may be the same as a number in the Powerball first set numbers for that play, constituting the Powerball second set number.

(c) An on-line ticket is the only valid proof of a play and the only valid receipt for claiming a prize in Powerball. A play slip shall have no pecuniary or prize value and shall not constitute evidence of purchase of an on-line ticket or a play.

(d) Unless otherwise indicated on the on-line ticket, an on-line ticket in **Hoosier Lottery** Powerball is effective for the next scheduled Powerball selection event. Subject to the restrictions of 65 IAC 5-2-10, the commission may offer multi-draw on-line tickets for **Hoosier Lottery** Powerball which are effective for the following numbers of Powerball selection events:

(1) Two (2).
(2) Three (3).
(3) Four (4).
(4) Five (5).
(5) Six (6).
(6) Seven (7).
(7) Ten (10).

(e) Sales of on-line tickets for **Hoosier Lottery** Powerball shall be suspended prior to the time of each Powerball selection event at a time determined by the director.

(f) Sales of on-line tickets for a Powerball selection event containing a particular play may be suspended if the total liability of the commission for winning on-line tickets containing that play would exceed an amount established by the director. No person shall be entitled to purchase an on-line ticket containing any particular play if such play has been suspended, and neither the commission, the director, nor any employee of the commission shall be liable for the inability of any person to purchase an on-line ticket containing a particular play.

(g) If a play slip is used to select a player's plays for a Powerball selection event, the play slip must have been approved by the commission and completed by hand. The play slip will be scanned by the on-line terminal or keyed in by hand by the retailer.

(h) The director may, in the director's sole discretion, authorize the generation of on-line entry tickets **or coupons** from terminals with respect to certain purchases of **Hoosier Lottery** Powerball **on-line** tickets.

(i) Notwithstanding 65 IAC 5-2-7 and 65 IAC 5-2-10, an on-line ticket for Hoosier Lottery Powerball may not be canceled by a retailer. *(State Lottery Commission; 65 IAC 5-12-4; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1016, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 45, eff Oct 6, 2002)*

SECTION 4. 65 IAC 5-12-5 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-5 Payment options
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 5. (a) Players are required to select a payment option for distribution of the grand prize amount at the time they become entitled to receive the jackpot prize. The following payment options are available:

(1) A single lump sum payment representing the total cash in the grand prize pool or the guaranteed grand prize amount, if any.

(2) ~~Twenty-five (25)~~ **Thirty (30)** annual installments until the total payments equal the annuitized value of the grand prize pool or the guaranteed grand prize amount, if any.

(b) If the player fails to select a payment option, the grand prize shall be paid in annual payments as set forth in **subsection** (a)(2). ~~of this section.~~ *(State Lottery Commission; 65 IAC 5-12-5; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1017, eff Nov 2, 1997; emergency rule filed Mar 1, 2000, 7:50 a.m.: 23 IR 1666, eff Apr 30, 2000; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 46, eff Oct 6, 2002)*

SECTION 5. 65 IAC 5-12-6 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-6 Amount of prize pools
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 6. (a) The prize pool for all prizes in **Hoosier Lottery** Powerball shall be equal to fifty percent (50%) of sales for the Powerball selection event.

(b) The grand prize pool for each Powerball selection event shall consist of the sum of the following amounts:

(1) Any amounts carried over from prior Powerball selection events as described in section 10(b) of this rule or from prior games conducted by MUSL pursuant to MUSL rules for such games.

(2) ~~Fifty-eight and three thousand eight hundred eighty-four ten-thousandths~~ **Sixty-five and three thousand three hundred seventy-eight ten-thousandths** percent ~~(58.3884%)~~ **(65.3378%)** of the allocable prize pool for the particular Powerball selection event until the amount of the grand prize pool is sufficient to fund the annuitized value of the grand prize guaranteed by MUSL for the particular Powerball selection event.

(3) After the grand prize guaranteed by MUSL, if any, is funded, ~~fifty-four and three thousand eight hundred eighty-four ten-thousandths~~ **sixty-two and seven thousand two hundred forty-three ten-thousandths** percent ~~(54.3884%)~~ **(62.7243%)** of the allocable prize pool for the particular Powerball selection event until the prize reserve accounts described in ~~65 IAC 5-12-7~~ **section 7 of this rule** have been funded in the amounts designated therein.

(4) After the prize reserve accounts described in ~~65 IAC 5-12-7~~ **section 7 of this rule** have been funded to the designated amounts, ~~fifty-eight and three thousand eight hundred eighty-four ten-thousandths percent (58.3884%) of the allocable prize pool for the particular Powerball selection event.~~ **any amounts in excess of the above required funding amounts, except as set forth in subsection 6(f)** *[subsection (f)]***.**

(c) The set prize pool for each Powerball selection event shall consist of the sum of the following amounts:

(1) Any amounts carried over from prior Powerball selection events as described in section 10(b) of this rule or from prior games conducted by MUSL pursuant to MUSL rules for such games.

(2) ~~Forty-one and six thousand one hundred sixteen ten-thousandths~~ **Thirty-four and six thousand six hundred twenty-two ten-thousandths** percent ~~(41.6116%)~~ **(34.6622%)** of the allocable prize pool for the particular Powerball selection event. **8.9218** *[sic.]*

(d) Unless otherwise specified by MUSL, the guaranteed grand prize amount for a Powerball selection event shall be ten million dollars ($10,000,000).

(e) If grand prize amounts are guaranteed pursuant to section 11(f) of this rule, the percentage of the prize pool allocated to the grand prize pool may be modified with respect to a particular Powerball selection event in order to permit funding of additional reserve accounts.

(f) If the grand prize is projected to reach an annuitized amount that MUSL, in its discretion, determines to be a new record level, the maximum amount to be allocated from the grand prize pool toward the next drawing shall be the previous record level plus twenty-five million dollars ($25,000,000) (annuitized) or such other amount as set by MUSL. Any amount of the of the *[sic.]* **grand prize pool which exceeds the twenty-five million dollar ($25,000,000) (annuitized) increase shall be added to the Match 5 Bonus Prize pool. The Match 5 Bonus Prize pool is hereby created and shall accumulate until MUSL confirms that at least one (1) on-line ticket containing all six (6) of the Powerball winning numbers was issued with respect to a Powerball selection event, at which time the Match 5 Bonus Prize pool shall be divided equally among the number of plays matching all five (5) of the Powerball first set numbers. In the event there are no plays matching all five (5) of the Powerball first set numbers in such a Powerball selection event, the Match 5 Bonus Prize pool shall be divided equally among the plays matching four (4) Powerball first set numbers and the Powerball second set number.** *(State Lottery Commission; 65 IAC 5-12-6; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1017, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule*

filed Aug 23, 2002, 1:29 p.m.: 26 IR 46, eff Oct 6, 2002)

SECTION 6. 65 IAC 5-12-7 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-7 Reserve accounts
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 7. (a) After the grand prize pool is funded in accordance with section 6 of this rule, two percent (2%) of total sales **by the commission and its retailers** for each Powerball selection event (which is equal to four percent (4%) of the allocable grand prize pool) shall be placed in trust in one (1) or more prize reserve accounts until such account or accounts have the balance determined by MUSL. Once the designated account balance or balances have been reached, any amount in excess thereof shall become part of the prize pool.

(b) Any money remaining in the prize reserve accounts after the final Powerball selection event shall be carried forward to a replacement prize reserve account or expended in the manner directed by MUSL or in accordance with state law. *(State Lottery Commission; 65 IAC 5-12-7; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1018, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 47, eff Oct 6, 2002)*

SECTION 7. 65 IAC 5-12-9 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-9 Allocation of prize pool
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 9. The prize pool for each Powerball selection event shall be allocated to the prizes as follows:

Number of Matching Numbers	Prize Payment	Prize Pool % Allocated to Prize
Match 5 Powerball first set numbers and 1 Powerball second set number	Grand Prize	~~58.3884%~~ **65.3378%***
Match 5 Powerball first set numbers	$100,000	~~10.2386%~~ **6.8035%**
Match 4 Powerball first set numbers and 1 Powerball second set number	$5,000	~~2.747%~~ **1.9913%**
Match 4 Powerball first set numbers	$100	~~2.2524%~~ **1.6328%**
Match 3 Powerball first set numbers and 1 Powerball second set number	$100	~~2.3624%~~ **1.8718%**
Match 3 Powerball first set numbers	$7	~~6.7800%~~ **5.3720%**
Match 2 Powerball first set numbers and 1 Powerball second set number	$7	~~2.3152%~~ **2.0090%**
Match 1 Powerball first set number and 1 Powerball second set number	$4	~~6.7800%~~ **6.4577%**
Match 1 Powerful second set number	$3	~~8.1360%~~ **8.5241%**

***Pursuant to section 6(f) of this rule, if MUSL determines that the grand prize has reached a new record level, the prize pool percentage allocated to the grand prize shall be reduced to that percentage needed to fund the maximum grand prize increase as determined by MUSL, with the remainder funding the Match 5 Bonus Prize pool.** *(State Lottery Commission; 65 IAC 5-12-9; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1018, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 47, eff Oct 6, 2002)*

SECTION 8. 65 IAC 5-12-10 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-10 Prize amounts
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 10. (a) The grand prize shall be a pari-mutuel prize paid to holders of valid on-line tickets for the particular Powerball selection event which contain the winning Powerball first set numbers and **the** winning Powerball second set number in accordance with the payment option selected by the holder pursuant to section 5 of this rule.

(b) The **grand** prize pool ~~allocated to the prizes~~ **and the set prize pool** shall be carried forward to subsequent Powerball selection events if all or a portion of ~~the pool is~~ **such pools are** not awarded in the current Powerball selection event. **If MUSL gives effect to section 6(f) of this rule but no on-line tickets containing all six (6) of the Powerball winning numbers were issued for the associated Powerball selection event, the prize money allocated to the Match 5 Bonus Prize pool shall be carried forward to the Match 5 Bonus Prize pool for the following drawing.**

(c) If the total of the set prizes awarded in a Powerball selection event would exceed the set prize pool, then the amount needed to fund the prizes shall be drawn from the following sources in the following order:

(1) The amount allocated to the set prizes and carried forward from previous draws, if any.

(2) An amount from the set prize reserve account, if available, not to exceed ~~thirty~~ **twenty-five** million dollars ~~($30,000,000)~~ **($25,000,000)** per Powerball selection event.

(d) If the sources set forth in subsection (c) are depleted and there still are not sufficient funds to pay the prizes for a particular Powerball selection event, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid as a pari-mutuel prize, is less than or equal to the next highest set prize and there are still not sufficient funds to pay the remaining **set** prizes, then the next highest set prize shall become a pari-mutuel prize. If necessary under the same test set forth in the preceding sentence, each succeeding set prize level shall be converted to a pari-mutuel prize, in order, until all set prizes become pari-mutuel. If all set prizes are converted to pari-mutuel prizes, the money available from the funding sources listed in subsection (c) shall be divided among the winning plays in proportion to the allocations in section 9 of this rule.

(e) The Match 5 Bonus Prize pool shall be divided equally among the number of plays matching all five (5) Powerball first set numbers in the event MUSL has given effect to section 6(f) of this rule and one (1) or more Powerball on-line tickets were issued containing all six (6) of the Powerball winning numbers determined in a Powerball selection event. *(State Lottery Commission; 65 IAC 5-12-10; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1019, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 47, eff Oct 6, 2002)*

SECTION 9. 65 IAC 5-12-11 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-11 Payment of prizes
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30; IC 4-30-15-1

Sec. 11. (a) The grand prize or any portion thereof shall be paid in accordance with the player's selected payment option as follows:

(1) A player who selects the lump sum, cash payment option shall receive a pari-mutuel share of a cash payment consisting of the greater of the total cash in the grand prize pool or the guaranteed minimum as defined in subsection (f). ~~of this rule.~~

(2) A player who fails to select an option or selects the annual payment option shall receive a pari-mutuel prize of ~~twenty-five (25)~~ **thirty (30)** equal payments, the first of which shall be in cash with the remaining ~~twenty-four (24)~~ **twenty-nine (29)** payments from the greater of:

(A) an annuity purchased by MUSL for the guaranteed prize amount as defined in subsection (f) of this rule less the amount of the first payment; or

(B) an annuity purchased by MUSL for the total cash held in the grand prize pool less the first payment.

(3) If the cash value of an annuity for the grand prize is less than two hundred fifty thousand dollars ($250,000), the commission may, in its sole discretion, pay each prize in a single lump sum.

(b) Set prizes or any portions thereof shall be paid in a single lump sum.

(c) The initial installment of a grand prize to be paid in annual installments over time shall not be paid until the fifteenth calendar day following the ~~Hoosier Lottery~~ Powerball selection event from which the grand prize was awarded.

(d) If a valid on-line ticket for Hoosier Lottery Powerball contains more than one (1) play entitled to a prize, the prize amounts for the winning plays shall be added together for purposes of claiming the prizes and determining whether the total prize amounts may be claimed from a retailer pursuant to 65 IAC 3-4-4.

(e) Annuitized payments of the jackpot amount or any portion thereof may be rounded down to the nearest thousand to facilitate the purchase of an appropriate funding mechanism. Breakage (the remainder after rounding) shall be paid to the winner or winners in the first prize payment. Prizes, which under this rule may become single payment, pari-mutuel prizes, shall be rounded down so that the prizes may be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the appropriate prize pool for the next ~~Hoosier Lottery~~ Powerball selection event.

(f) MUSL may offer guaranteed grand prize amounts or minimum increases in grand prize amounts between ~~Hoosier Lottery~~ Powerball selection events when MUSL finds that such would be in the best interest of the game. Changes in the allocation of prize money shall be designed to retain the approximate prize pool allocation percentages set forth in this rule over a one (1) year period.

(g) The commission shall pay to MUSL all amounts required under the rules of MUSL to fund prizes in Hoosier Lottery Powerball, and such amounts shall be removed for this purpose from the administrative trust fund created by IC 4-30-15-1. MUSL shall have the ultimate obligation to pay prizes awarded in Hoosier Lottery Powerball and shall purchase any annuity or investment that is used to fund a prize paid over time in Hoosier Lottery Powerball.

(h) The commission shall not pay or arrange for the payment of, and no retailer shall pay a prize in respect of, any Hoosier Lottery Powerball on-line ticket that was not purchased from a retailer under contract with the commission.

(i) Except as provided herein and in section 11.5 of this rule, prizes shall not be accelerated. MUSL, upon petition to the commission from the estate of a deceased winner, may accelerate the remaining payments of such a prize by distributing to the estate the securities or the cash representing the present value of the remaining payments in lieu of continuing annual payments. The method and timing of the sale of any security being held to fund the remaining payments are solely within the

commission's discretion. *(State Lottery Commission; 65 IAC 5-12-11; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1019, eff Nov 2, 1997; emergency rule filed Jun 10, 1999, 5:13 p.m.: 22 IR 3119; emergency rule filed Mar 1, 2000, 7:50 a.m.: 23 IR 1666, eff Apr 30, 2000; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 48, eff Oct 6, 2002)*

SECTION 10. 65 IAC 5-12-12 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-12 Odds of winning
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 12. (a) The odds of winning the grand prize in a Powerball selection event by matching five (5) Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:80,089,128.~~ **1:120,526,700.000000.**

(b) The odds of winning a prize of one hundred thousand dollars ($100,000) in a Powerball selection event by matching five (5) Powerball first set numbers and no Powerball second set number are approximately ~~1:1,953,393.365854.~~ **1:2,939,677.317073.**

(c) The odds of winning a prize of five thousand dollars ($5,000) in a Powerball selection event by matching four (4) Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:364,041.490909.~~ **1:502,194.875000.**

(d) The odds of winning a prize of one hundred dollars ($100) in a Powerball selection event by matching four (4) Powerball first set numbers and no Powerball second set number are approximately ~~1:8,879.060754.~~ **1:12,248.655488.**

(e) The odds of winning a prize of one hundred dollars ($100) in a Powerball selection event by matching three (3) Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:8,466.081184.~~ **1:10,684.997340.**

(f) The odds of winning a prize of seven dollars ($7) in a Powerball selection event by matching three (3) Powerball first set numbers and no Powerball second set number are approximately ~~1:206.489785.~~ **1:260.609691.**

(g) The odds of winning a prize of seven dollars ($7) in a Powerball selection event by matching two (2) Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:604.720058.~~ **1:696.847653.**

(h) The odds of winning a prize of four dollars ($4) in a Powerball selection event by matching one (1) **of the** Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:117.994163.~~ **1:123.884027.**

(i) The odds of winning a prize of three dollars ($3) in a Powerball selection event by matching no Powerball first set numbers and one (1) Powerball second set number are approximately ~~1:73.746352.~~ **1:70.388652.** *(State Lottery Commission; 65 IAC 5-12-12; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1020, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 49, eff Oct 6, 2002)*

SECTION 11. 65 IAC 5-12-12.5 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-12.5 Power Play promotion
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 12.5. (a) The Power Play promotion shall be available in association with the **Hoosier Lottery** Powerball on-line game commencing March 4, 2001, and concluding upon the determination of the director. The Power Play promotion will be conducted in accordance with the Hoosier Lottery Powerball rules except that players may purchase the Power Play option for the chance to multiply set prizes won as a result of a Powerball selection event by a number ranging from ~~one (1)~~ **two (2)** to five (5). The Powerball grand prize **and the Match 5 Bonus Prize** shall not be eligible for multiplication under the Power Play promotion.

(b) At the time of purchasing a **Hoosier Lottery** Powerball on-line ticket from an authorized retailer, a player may purchase the Power Play option for one dollar ($1) per play for each play on the **Hoosier Lottery** Powerball on-line ticket.

(c) At the time of each Powerball selection event, MUSL shall conduct a Power Play selection event under the supervision of security and an independent auditor which shall result in the selection of the Power Play number from among the following series of numbers: ~~1, 1,~~ **2,** 2, 2, **3,** 3, 3, **4,** 4, 4, **5, 5,** 5, 5, 5, and 5.

(d) On-line tickets that contain the Power Play option and one (1) or more plays eligible for Powerball set prizes (but not the grand prize) identified in section 9 of this rule shall be entitled to a total set prize calculated by multiplying each ~~Powerball~~ set prize by the Power Play number.

(e) The prize pool for Power Play set prizes shall consist of up to forty-eight and one-half percent (48.5%) of **Power Play** sales incurred between Power Play selection events after Powerball prize reserve accounts are funded to the amounts set by MUSL. The prize pool percentage allocated to Power Play set prizes shall be carried forward to subsequent Power Play selection events if all or a portion of such percentage is not required to pay the set prizes for the current Power Play selection event. Any amount remaining in the prize pool for Power Play set prizes at the end of the **Hoosier Lottery**

Powerball on-line game shall be carried forward to a replacement on-line game or expended in a manner directed by MUSL or in accordance with state law.

(f) An additional one and one-half percent (1.5%) of Power Play sales incurred between Power Play selection events may be collected and placed in prize reserve accounts until the prize reserve accounts meet the amounts designated by MUSL.

(g) If, with respect to a single Powerball selection event and associated Power Play selection event, the total of the Powerball set prizes without the Power Play option and the Powerball set prizes multiplied by the Power Play number exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund those combined set prizes shall be drawn from the following sources in the following order:

(1) The amount allocated to the set prizes and carried forward from previous Powerball selection events and Power Play selection events, if any.

(2) The amounts allocated to the Power Play set prize reserve accounts, if any.

(3) An amount from the Powerball set prize reserve account, if available, not to exceed twenty-five million dollars ($25,000,000) per selection event.

(h) If the sources set forth in subsection (g) are depleted and there still are not sufficient funds to pay the set prizes for a particular Powerball selection event and associated Power Play selection event, then the highest set prize, including the multiplied set prize, shall become a pari-mutuel prize. If the amount of the highest set prize, when paid as a pari-mutuel prize, is less than or equal to the next highest set prize and there are still not sufficient funds to pay the remaining prizes, then the next highest set prize, including the multiplied set prize, shall become a pari-mutuel prize. If necessary under the same test set forth in the preceding sentence, each succeeding set prize level shall be converted to a pari-mutuel prize, in order, until all set prizes become pari-mutuel. If all set prizes are converted to pari-mutuel prizes, the money available from the funding sources listed in subsection (g) shall be divided among the winning plays in proportion to their respective prize percentages.

(i) Power Play set prizes which become pari-mutuel may be rounded down so that they can be paid in multiples of whole dollars. Breakage resulting from rounding shall be carried forward to the prize pool for the next Power Play selection event.

(j) All Power Play set prizes shall be paid in single, lump sum payments determined by multiplying the Powerball set prize by the number selected in the Power Play selection event as follows:

	Powerball Set Prize Amount	Power Play Multiplier and Set Prize Amount				
		5	4	3	2	~~1~~
Match 5 + 0	$100,000	$500,000	$400,000	$300,000	$200,000	~~$100,000~~
Match 4 + 1	$5,000	$25,000	$20,000	$15,000	$10,000	~~$1,000~~
Match 4 + 0	$100	$500	$400	$300	$200	~~$100~~
Match 3 + 1	$100	$500	$400	$300	$200	~~$100~~
Match 3 + 0	$7	$35	$28	$21	$14	~~$7~~
Match 2 + 1	$7	$35	$28	$21	$14	~~$7~~
Match 1 + 1	$4	$20	$16	$12	$8	~~$4~~
Match 0 + 1	$3	$15	$12	$9	$6	~~$3~~

When the Powerball set prizes become pari-mutuel, the Powerball set prize amounts will be less than the amount shown in which case the Power Play set prizes shall be a multiple of the new Powerball set prize amount.

(k) Power Play set prizes shall not be paid until the commission receives notification to pay from MUSL.

(l) The odds of various Power Play numbers being selected in a Power Play selection event and the resulting impact on the Powerball set prizes are:

(1) The odds of increasing a set prize in a Powerball selection event by a multiple of five (5) through a Power Play are approximately ~~1:3.~~ **1:2.5.**

(2) The odds of increasing a set prize in a Powerball selection event by a multiple of four (4) through a Power Play are approximately ~~1:6.~~ **1:5.**

(3) The odds of increasing a set prize in a Powerball selection event by a multiple of three (3) through a Power Play are approximately ~~1:6.~~ **1:5.**

(4) The odds of increasing a set prize in a Powerball selection event by a multiple of two (2) through a Power Play are approximately ~~1:6.~~ **1:5.**

~~(5) The odds of no increase in a set prize in a Powerball selection event due to the selection of a one (1) as the Power Play number are approximately 1:6.~~

~~(6) The overall odds of increasing a set prize in a Powerball selection event through a Power Play are approximately 5:6.~~

(m) The Power Play shall not apply to the grand prize or the portion of the prize attributable to the Match 5 Bonus Prize described in section 6(f) of this rule. *(State Lottery Commission; 65 IAC 5-12-12.5; emergency rule filed Mar 2,*

2001, 4:08 p.m.: 24 IR 2094; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 49, eff Oct 6, 2002)

SECTION 12. 65 IAC 5-12-14 IS AMENDED TO READ AS FOLLOWS:

65 IAC 5-12-14 Ineligible players
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 14. (a) In addition to the individuals identified in 65 IAC 1-3-4, the following persons are not eligible to purchase a ticket in Powerball and shall be ineligible to be paid a prize for a Powerball ticket:

(1) An employee, officer, or director of MUSL.

(2) A person under contract with MUSL to conduct a financial or security audit of MUSL.

(3) An employee, partner, shareholder, or owner of an independent accounting firm under contract with MUSL to observe selection events and site operations.

(4) A relative living in the same household of a person described in ~~item~~ **subdivision** (1), (2), or (3).

(b) Except as provided in subsection (a), the individuals identified in 65 IAC 1-3-4 are not prohibited from purchasing a ticket or winning a prize from a MUSL member lottery other than the commission. *(State Lottery Commission; 65 IAC 5-12-14; emergency rule filed Oct 24, 1997, 12:35 p.m.: 21 IR 1020, eff Nov 2, 1997; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:29 p.m.: 26 IR 51, eff Oct 6, 2002)*

SECTION 13. **SECTIONS 1 through 12 of this document take effect October 6, 2002.**

LSA Document #02-254(E)
Filed with Secretary of State: August 23, 2002, 1:29 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-255(E)

DIGEST

Amends 65 IAC 6 concerning pull-tab rules. Effective August 29, 2002.

65 IAC 6-1-1.1
65 IAC 6-1-1.2
65 IAC 6-1-2.1
65 IAC 6-1-2.2
65 IAC 6-1-4.1
65 IAC 6-1-10
65 IAC 6-2-3
65 IAC 6-2-4
65 IAC 6-2-5
65 IAC 6-2-8
65 IAC 6-2-9
65 IAC 6-3-2
65 IAC 6-3-3
65 IAC 6-4

SECTION 1. 65 IAC 6-1-1.1 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-1.1 "Agent verification code" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 1.1. "Agent verification code" means a three (3) digit number within the game play data area of a pull-tab ticket. *(State Lottery Commission; 65 IAC 6-1-1.1; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 51, eff Aug 29, 2002)*

SECTION 2. 65 IAC 6-1-1.2 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-1.2 "Bar code" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 1.2. "Bar code" means a graphical representation of data to be used in the validation of a pull-tab ticket. *(State Lottery Commission; 65 IAC 6-1-1.2; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 51, eff Aug 29, 2002)*

SECTION 3. 65 IAC 6-1-2.1 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-2.1 "Game identification number" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2.1. "Game identification number" means a number associated with a particular pull-tab game. *(State Lottery Commission; 65 IAC 6-1-2.1; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 51, eff Aug 29, 2002)*

SECTION 4. 65 IAC 6-1-2.2 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-2.2 "Game/pack number" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2.2. "Game/pack number" means a number appearing on a pull-tab ticket which includes the game identification number applicable to the pull-tab ticket and the pack from which the pull-tab ticket was removed. *(State Lottery Commission; 65 IAC 6-1-2.2; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 51, eff Aug 29, 2002)*

SECTION 5. 65 IAC 6-1-4.1 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-4.1 "Pack number" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4.1. "Pack number" means the six (6) digit number appearing on all pull-tab tickets in a pack. *(State Lottery Commission; 65 IAC 6-1-4.1; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 51, eff Aug 29, 2002)*

SECTION 6. 65 IAC 6-1-10 IS ADDED TO READ AS FOLLOWS:

65 IAC 6-1-10 "Validation number" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 10. "Validation number" means a fourteen (14) digit number imaged on each pull-tab ticket. *(State Lottery Commission; 65 IAC 6-1-10; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 52, eff Aug 29, 2002)*

SECTION 7. 65 IAC 6-2-3 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-2-3 Termination of a pull-tab game
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 3. A pull-tab game will end when all pull-tab tickets for that pull-tab game have been sold or on a date ~~announced in advance~~ **determined** by the director **and placed on the commission's Web site and notices that are distributed to retailers.** The director may suspend or terminate a pull-tab game without advance notice if the director finds that such suspension or termination is in the best interests of the ~~lottery.~~ **commission.** A retailer authorized to sell pull-tab tickets may sell any pull-tab tickets remaining in the retailer's possession after the applicable pull-tab game has ended. *(State Lottery Commission; 65 IAC 6-2-3; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1041; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 52, eff Aug 29, 2002)*

SECTION 8. 65 IAC 6-2-4 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-2-4 Use of names and photographs of winners
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. The commission shall have the right to use and publicize the name and ~~city or town of residence~~ **a photograph** of any winner in a pull-tab game, **public information on the winner claim form, and the city, town, township, or any other political subdivision in which the winner resides.** The commission ~~shall have the right to use and publicize a photograph of any winner in a pull-tab game with the permission of the winner.~~ **may, in its sole discretion, require a winner in a pull-tab game to participate in interviews and press conferences with public relations personnel and media representatives.** The commission shall not pay any additional consideration to any winner for use of such a photograph or information. Neither the commission, the director, nor any employee of the commission shall be liable for any use or release of information regarding, or photographs of, winners in compliance with this section. *(State Lottery Commission; 65 IAC 6-2-4; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1041; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 52, eff Aug 29, 2002)*

SECTION 9. 65 IAC 6-2-5 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-2-5 Validation of tickets
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-11

Sec. 5. (a) Except as provided in section 6 of this rule, all of the following requirements must be met for a pull-tab ticket to be a valid ticket:

(1) The number of play symbols in the game play data area must correspond with the number of play symbols established with respect to pull-tab tickets for the applicable pull-tab game.

(2) Each of the play symbols must be present in its entirety and be fully legible.

(3) Each of the play symbol captions, if any, must agree with the play symbol and be present in its entirety and fully legible.

(4) Each of the play symbols and play symbol captions, if any, must be printed in the colors designated by the commission.

~~(3)~~ **(5)** The pull-tab ticket must be intact and not defaced in any manner.

(6) The game/pack number must be present in its entirety and be fully legible.

~~(4)~~ **(7)** The pull-tab ticket must not be reconstituted or tampered with in any manner.

~~(5)~~ **(8)** The pull-tab ticket must not be counterfeit in whole or in part.

~~(6)~~ **(9)** The pull-tab ticket must have been issued by the commission in the authorized manner.

~~(7)~~ **(10)** The pull-tab ticket must not be stolen **or appear on any list of omitted tickets on file with the commission.**

~~(8)~~ **(11)** The play symbols, ~~and~~ any play symbol captions, **the validation number, the agent verification codes, and the game/pack number** must be right-side-up and not reversed in any manner.

(12) The pull-tab ticket must have exactly one (1) play symbol caption for each play symbol, if play symbol captions are used in that pull-tab game, exactly one (1) game/pack number, and exactly one (1) agent verification code.

(13) The validation number of an apparent winning ticket must appear on the commission's official list of validation numbers of winning pull-tab tickets, and the pull-tab ticket with that validation number must not have been paid previously according to the records of the commission.

~~(9)~~ **(14)** The ticket must not have a hole punched through it and must not be blank or partially blank, misregistered, defective, or printed or produced in error.

(15) Each of the play symbols and play symbol captions, if any, on the pull-tab ticket must be exactly one (1) of those described in a rule promulgated under this article as applicable to the pull-tab tickets for the pull-tab game in which the pull-tab ticket was issued.

~~(10)~~ **(16)** Each of the play symbols and any play symbol captions on the pull-tab ticket must correspond exactly to the typeface and artwork on file with the commission.

(17) The game/pack number must correspond exactly to the typeface and artwork on file with the commission.

(18) The validation number must correspond exactly to the typeface and artwork on file with the commission.

(19) The agent verification codes must correspond exactly to the typeface and artwork on file with the commission.

~~(11)~~ **(20)** The display printing must be regular in every respect and correspond exactly to the artwork on file with the commission.

(21) The agent verification codes on an apparent winning ticket must correspond to the agent verification codes specified on file with the commission.

~~(12)~~ **(22)** The pull-tab ticket must pass any additional validation tests specified in this article as applicable to the specific pull-tab game for which the pull-tab ticket was issued.

~~(13)~~ **(23)** The pull-tab ticket must pass all additional confidential validation tests prescribed by the commission.

(24) The pull-tab ticket must be a pull-tab ticket offered for sale by the commission during the period the director authorizes for that pull-tab game.

~~(14)~~ **(25)** The pull-tab ticket must have been submitted within the claim period provided in this article.

(b) Except as provided in section 6 of this rule, any pull-tab ticket not passing all of the validation requirements in subsection (a) is void and ineligible for any prize, and no prize shall be paid thereon. *(State Lottery Commission; 65 IAC 6-2-5; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1042; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 52, eff Aug 29, 2002)*

SECTION 10. 65 IAC 6-2-8 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-2-8 Game rules
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 8. The director, **or the director's designee,** is authorized to develop and promulgate ~~regulations~~ **game rules** and procedures for specific pull-tab games ~~on behalf~~ **during the periods between meetings** of the commission and to conduct pull-tab games in accordance with such ~~regulations~~ **game rules** and procedures. The director, **or the director's designee,** shall advise the ~~games committee of the~~ commission of the contents of such regulations and procedures. The director, **or the director's designee,** shall report any such regulations promulgated to the commission at its next meeting. *(State Lottery Commission; 65 IAC 6-2-8; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1043; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 53, eff Aug 29, 2002)*

SECTION 11. 65 IAC 6-2-9 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-2-9 Ticket price
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 9. ~~Unless otherwise provided in the regulations applicable to~~ **The price for each pull-tab ticket in** a specific pull-tab game ~~a pull-tab ticket shall sell for fifty cents ($.50) per ticket.~~ **shall be set forth in the rule specific to that pull-tab game.** *(State Lottery Commission; 65 IAC 6-2-9; emergency rule filed May 27, 1992, 12:00 p.m.: 15 IR 2265; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 53, eff Aug 29, 2002)*

SECTION 12. 65 IAC 6-3-2 IS AMENDED TO READ AS FOLLOWS:

65 IAC 6-3-2 Claiming prizes
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2. (a) To the extent required by federal tax law, the claimant of a prize shall furnish a tax identification number to the commission in the manner specified by the commission.

(b) A prize in a pull-tab game ~~must be claimed in the following manner:~~

~~(1) The prize must be claimed from the retailer who sold the prize-winning pull-tab ticket.~~

~~(2) The prize must be claimed prior to the close of business of the retailer who sold the pull-tab ticket on the day the pull-tab ticket was sold.~~ **that is six hundred dollars ($600) or lower may be claimed at any participating retailer of lottery tickets or at any of the commission's offices. A prize in a pull-tab game that is higher than six hundred dollars ($600) may be claimed only at the commission's offices.**

(c) A pull-tab prize must be claimed within sixty (60) days after the end of the specific pull-tab game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-6886.

~~(c)~~ **(d)** The commission, the director, employees of the commission, the state, and officials, officers, and employees of the state shall have no liability for payment of any prize in a

pull-tab game. *(State Lottery Commission; 65 IAC 6-3-2; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1043; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:30 p.m.: 26 IR 53, eff Aug 29, 2002)*

SECTION 13. THE FOLLOWING ARE REPEALED: 65 IAC 6-3-3; 65 IAC 6-4-6; 65 IAC 6-4-7; 65 IAC 6-4-8; 65 IAC 6-4-9; 65 IAC 6-4-10; 65 IAC 6-4-11; 65 IAC 6-4-12; 65 IAC 6-4-13; 65 IAC 6-4-14; 65 IAC 6-4-15; 65 IAC 6-4-16; 65 IAC 6-4-17; 65 IAC 6-4-18; 65 IAC 6-4-19; 65 IAC 6-4-20 *[65 IAC 6-4-13 through 65 IAC 6-4-20 were promulgated as temporary noncode sections.]*.

SECTION 14. **SECTIONS 1 through 13 of this document take effect August 29, 2002.**

LSA Document #02-255(E)
Filed with Secretary of State: August 23, 2002, 1:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-257(E)

DIGEST

Temporarily adds rules concerning instant game number 650. Effective September 3, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 650, Hot Streak".**

SECTION 2. **Instant tickets in instant game number 650 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 650 shall contain twelve (12) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Ten (10) play symbols and play symbol captions shall appear in the area labeled "YOUR HOT NUMBERS" and be arranged in pairs representing numbers or pictures and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 650, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN
(11) A picture of a flame
WIN

(c) The play symbols and play symbol captions representing prize amounts in instant game number 650 shall consist of the following possible play symbols and play symbol captions:

(1) $1.00
ONE
(2) $2.00
TWO
(3) $5.00
FIVE
(4) $10.00
TEN
(5) $20.00
TWENTY
(6) $25.00
TWY FIVE
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $500
FIVE HUN
(10) $2,500
TWYFIV HUN

SECTION 4. **The holder of a ticket in instant game number 650 shall remove the latex material covering the twelve (12) play symbols and play symbol captions. If one (1) or more of "YOUR HOT NUMBERS" match either of the "WINNING NUMBERS", the holder is entitled to the prize amount paired with the matched number. If the play symbol of a picture of a flame with the play symbol caption "WIN" is paired with a play symbol in the "YOUR HOT NUMBERS" area, the holder is automatically entitled to the paired prize amount. The matched play symbols, prize amounts, and number of winners in instant game number 650 are as follows:**

Number of Matches and Matched Bonus Play Symbols	Total Prize Amount	Approximate Number of Winners
1 – $1.00	$1	476,000
2 – $1.00	$2	136,000
1 – $2.00	$2	95,200
3 – $1.00	$3	13,600
1 – $5.00	$5	54,400
5 – $2.00	$10	27,200
2 – $5.00	$10	13,600
1 – $10.00	$10	13,600
2 – $5.00 + 1 – $10.00	$20	6,800
2 – $10.00	$20	6,800
5 – $5.00	$25	1,275
1 – $25.00	$25	1,275
1 – $10.00 + 2 – $20.00	$50	425
2 – $25.00	$50	425
1 – $50.00	$50	425
1 – $100	$100	850
1 – $500	$500	85
1 – $2,500	$2,500	34

SECTION 5. **(a) There shall be approximately four million (4,000,000) instant tickets initially available in instant game number 650.**

(b) The odds of winning a prize in instant game number 650 are approximately 1 in 4.81.

(c) All reorders of tickets for instant game number 650 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (240,000) *[sic.]***; and**
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 650 is September 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire October 31, 2003.**

LSA Document #02-257(E)
Filed with Secretary of State: September 3, 2002, 3:25 p.m.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-250(E)

DIGEST

Amends 71 IAC 5.5-5-3 concerning responsibilities of jockey agents to file a commission provided form for each jockey he or she represents. Amends 71 IAC 6.5-1-4 concerning the clarification on claiming prohibitions. Adds 71 IAC 7.5-10-1 concerning quarter horse time trials. Adds 71 IAC 8.5-4-8 concerning practicing veterinarians providing notice of scratches in writing. Adds 71 IAC 8.5-5-2 concerning prohibited practices banning certain drugs or substances consistent with RCI recommendations. Amends 71 IAC 8.5-10-6 concerning the clarification of penalties for human drug positives. Effective August 20, 2002.

71 IAC 5.5-5-3 **71 IAC 8.5-4-8**
71 IAC 6.5-1-4 **71 IAC 8.5-5-2**
71 IAC 7.5-10 **71 IAC 8.5-10-6**

SECTION 1. 71 IAC 5.5-5-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5.5-5-3 Responsibilities
Authority: IC 4-31-6-2
Affected: IC 4-31

Sec. 3. (a) A jockey agent shall not make or assist in making engagements for a jockey other than the jockeys the agent is licensed to represent.

(b) A jockey agent shall ~~file written proof of~~ **have completed the appointment of jockey agent form provided by the commission for** all ~~agencies and changes of agencies with the stewards.~~ **jockeys he represents. Furthermore, the agent shall complete the revocation of appointment when the agent withdraws or is discharged from representation. Such form shall be filed with the stewards prior to the first draw in which a jockey is listed to ride.**

(c) A jockey agent shall notify the stewards, in writing, prior to withdrawing from representation of a jockey and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

(d) All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

(e) The stewards may require a jockey agent located outside Indiana, whose jockey is licensed and riding in Indiana, to secure an Indiana license and file any applicable forms. *(Indiana Horse Racing Commission; 71 IAC 5.5-5-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2859, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 55)*

SECTION 2. 71 IAC 6.5-1-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6.5-1-4 Prohibitions
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 4. (a) A person shall not claim a horse in which the person has a financial or beneficial interest as an owner or trainer.

(b) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(c) A person shall not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race.

(d) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

(e) A person shall not file a claim more than one (1) horse in a race or file more than one (1) claim for the same horse. **However, owners utilizing the same trainer may claim different horses from the same race.**

(f) A person shall not claim more than one (1) horse in a race. However, owners utilizing the same trainer may claim different horses from the same race.

~~(f)~~ **(g)** A horse claimed in this jurisdiction shall not race outside Indiana until after the conclusion of the race meet without the permission of the stewards.

~~(g)~~ **(h)** The association shall ensure the claim box is locked. The association shall unlock the claim box only after the deadline for claiming a horse has passed. *(Indiana Horse Racing Commission; 71 IAC 6.5-1-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2862, eff Jul 1, 1995; emergency rule filed June 8, 1999, 9:30 a.m.: 22 IR 3121, eff May 26, 1999 [NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 55)*

SECTION 3. 71 IAC 7.5-10 IS ADDED TO READ AS FOLLOWS:

Rule 10. Quarter Horse Time Trials

71 IAC 7.5-10-1 Time trials
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. Recommended rules for time trials:
(1) Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten (10) horses.
(2) The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten (10) fastest times shall qualify to participate in the finals. If the time trials are conducted on two (2) days, the horses with the five (5) fastest times on the first day and the horses with the five (5) fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two (2) days, the racing office should make every attempt to split owners with more than one (1) entry into separate days so that the owner's horses have a chance at all ten (10) qualifying positions. The racing secretary shall try to separate trainers and then jockeys from having more than one (1) horse in a time trial.
(3) If the association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.
(4) If only eleven (11) or twelve (12) horses are entered to run in time trials from a gate with twelve (12) or more stalls, the association may choose to run finals only. If eleven (11) or twelve (12) horses participate in the finals, only the first ten (10) finishers will receive purse money unless the conditions of the race specify otherwise. This provision shall not apply to two (2) year old races.
(5) In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in qualifying for the finals. Should two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Under no circumstances should stewards or placing judges attempt to determine horses' qualifying times in separate trials beyond the limit of the timer by comparing and/or enlarging photo-finish pictures.
(6) Except in the case of disqualifying, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.
(7) Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one-hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. In the case where a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse may be given no time plus one-hundredth (.01) of a second, or the maximum accuracy of the electronic timing device.
(8) Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be

determined by official hand times operated by three (3) official and disinterested persons. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. The other horses in that race will be given times according to the order and margins of finish with the aid of the photo-finish strip, if available.

(9) When there is a malfunction of the timer during the time trials, but the timer operates correctly in other time trials, under no circumstances should the accurate electronic times be discarded and the average of the hand times used for all time trials. (The only exemption may be if the conditions of the stakes race so states, or states that in the case of a malfunction of the timer in trials, finalists will be selected by order finish in the trials.)

(10) In the case where the accuracy of the electronic timer and/or the average of the hand times are questioned, the video of a time trial may be used to estimate the winning time by counting the number video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. This method is accurate to approximately three-hundredths (.03) seconds *[sic., second]***. Should the case arise where the timer malfunctions and there are no hand times, the stewards should have the option to select qualifiers based on the video time.**

(11) Should there be a malfunction of the starting gate, and one (1) or more stall doors not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors nonstarters. The stewards should have the option, however, to allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. In the case where a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter dispatches the field, the horse must be declared a nonstarter, and all entry fees refunded. In the case where one (1) or more, but not all stall doors open at the exact moment the starter dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic time. If the electronic timer malfunctions in this instance, the average of the hand times or, if not available, the video time should be utilized for the horses declared starters.

(12) There will be an also eligible list only in the case of a disqualification for a positive drug test report, ineligibility of the horse according to the conditions of the race or a disqualification by the stewards for a rule violation. Should a horse be disqualified for a positive drug test report, ineligibility of the horse according to the conditions of the race or a disqualification by the stewards for a rule violation, the next fastest qualifier shall assume the disqualified horse's position in the final.

(13) If a horse should be scratched from the time trials, the horse's owner will not be eligible for a refund of the fees paid. If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse should be scratched from the final, for any reason other than a positive drug test report or a rule violation, then those purse monies shall be added together and divided equally among those owners.

(Indiana Horse Racing Commission; 71 IAC 7.5-10-1; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 56)

SECTION 4. 71 IAC 8.5-4-8 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-4-8 Notice in writing
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 8. No horse shall be considered scratched from a race for lameness or sickness until a scratch slip, signed by a veterinarian, is presented to the stewards and approved. Veterinarians shall report medical scratches to the stewards immediately after diagnosis. *(Indiana Horse Racing Commission; 71 IAC 8.5-4-8; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57)*

SECTION 5. 71 IAC 8.5-5-2 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-5-2 Prohibited practices
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 2. (a) The possession and/or use of a drug, substance, or medication, specified below, on the premises of a facility under the jurisdiction of the commission is prohibited. These drugs or substances include those which a recognized analytical method has not been developed to detect and confirm the administration of such substance, or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider, or the use of which may adversely affect the integrity of racing:

(1) Erythropoietin.

(2) Darbepoietin.

(b) The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States is prohibited. *(Indiana Horse Racing Commission; 71 IAC 8.5-5-2; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57)*

SECTION 6. 71 IAC 8.5-10-6 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-10-6 Penalties
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 6. (a) Upon a finding of a positive test, the stewards or commission shall, to the extent of its regulatory authority, impose the following sanctions:

(1) For a licensee's first violation, he or she shall be suspended for thirty (30) days and shall be subject to a mandatory drug retest after thirty (30) days from the first violation of this article. Such additional drug test shall be done by the commission testing laboratory at the licensee's expense. Until such retest achieves negative results, the licensee shall remain suspended.

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. ~~or for a period of not less than sixty (60) days, whichever is greater.~~ The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee ~~will receive a mandatory suspension of his or her license for~~ **shall be suspended for** a ~~period~~ **minimum** of sixty (60) days and ~~referred to the commission for any further penalty deemed appropriate.~~ **shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled.** The person shall not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine samples thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

(b) Prior human controlled substance or prescription drug violations reflected on a person's racing record from any jurisdiction recognized by the commission, including Indiana, shall be counted as violations when determining appropriate penalties as set forth in subsections (a).

(c) In determining the penalty to impose for an offense covered by this rule, the stewards or the commission may consider any mitigating and/or exacerbating circumstances and make an appropriate adjustment to the penalties which are set forth in subsection (a). *(Indiana Horse Racing Commission; 71 IAC 8.5-10-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2158; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 58)*

LSA Document #02-250(E)
Filed with Secretary of State: August 20, 2002, 3:00 p.m.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-251(E)

DIGEST

Amends 71 IAC 12-2-15 concerning the allocation of riverboat gambling revenue. Amends 71 IAC 12-2-19 concerning the allocation of breakage and outs. Effective January 1, 2003.

71 IAC 12-2-15
71 IAC 12-2-19

SECTION 1. 71 IAC 12-2-15, AS AMENDED AT 25 IR 1189, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

71 IAC 12-2-15 Allocation of riverboat gambling admissions tax revenue
Authority: IC 4-31-3-9; IC 4-33-12-6
Affected: IC 4-31-11-10

Sec. 15. (a) An association must be racing live in order to be eligible to receive distributions of riverboat gambling admissions tax revenue pursuant to this section.

(b) The commission shall allocate the riverboat gambling admissions tax revenue distributed to the commission by the treasurer of state pursuant to IC 4-33-12-6 as follows:

(1) Twenty percent (20%) divided ~~equally~~ between the standardbred breed development fund, ~~and the~~ thoroughbred breed development fund, **and quarter horse breed development fund** as established by the commission under IC 4-31-11-10 ~~after the first one hundred thousand dollars ($100,000)~~

~~is allocated to the quarter horse breed development fund.~~ **as follows:**

(A) Forty-eight percent (48%) to standardbred breed development.

(B) Forty-eight percent (48%) to thoroughbred breed development; and

(C) Four percent (4%) to quarter horse breed development.

(2) Forty percent (40%) to purses for the benefit of horsemen, which shall be divided equally between the standardbred purse account and the thoroughbred purse account after the first two hundred thousand dollars ($200,000) is allocated to purses for races for quarter horses. If more than one (1) track races a specific breed, purses for that breed shall be divided to the purse accounts of the tracks in question proportionally based upon the number of live race dates for that breed. To the extent practical, the revenue received under this subsection shall be distributed as purses for the benefit of horsemen in the year in which the revenue is received.

(3) In a year in which only one (1) association conducts live pari-mutuel racing, forty percent (40%) shall go to the association after the first five hundred thousand ($500,000) is distributed as follows:

(A) Two hundred thousand ($200,000) to the thoroughbred development fund.

(B) Two hundred thousand ($200,000) to the standardbred development fund.

(C) One hundred thousand ($100,000) to the quarter horse development fund.

Such revenue may be used by the association for purses, promotions, and routine operations of the race track. Provided, however, that such monies shall not be used for long term capital investment or construction.

(4) In a year in which more than one (1) association conducts live pari-mutuel racing, forty percent (40%) to the associations, which shall be divided proportionally based on the total purses, irrespective of any breed considerations, generated by each association's track and satellite facilities from the following sources:

(A) Live handle at track.

(B) Live handle at satellite facilities.

(C) Interstate simulcasting receiving handle.

(D) Interstate simulcasting sending handle.

Notwithstanding above formula, in a year which two (2) associations conduct commission approved live racing of both thoroughbreds and standardbreds at each facility, the forty percent (40%) shall be divided equally between associations.

(Indiana Horse Racing Commission; 71 IAC 12-2-15; emergency rule filed Mar 9, 1994, 2:50 p.m.: 17 IR 1629; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2090; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2423; emergency rule filed Dec 22, 1999, 4:13 p.m.: 23 IR 1113, eff Dec 15, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-269(E) was filed with the secretary of state on December 22, 1999]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Nov 29, 2001, 1:20 p.m.: 25 IR 1189; emergency rule filed Aug 22, 2002, 12:41 p.m.: 26 IR 58, eff Jan 1, 2003)

SECTION 2. 71 IAC 12-2-19, AS AMENDED AT 25 IR 1190, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

71 IAC 12-2-19 Allocation of breakage and outs

Authority: IC 4-31-3-9; IC 4-31-9-10
Affected: IC 4-31-11-10; IC 4-31-11-11

Sec. 19. All breakage and outs shall be distributed, ~~equally,~~ irrespective of the number of tracks, between the standardbred breed development fund, ~~and the~~ thoroughbred breed development fund, **and quarter horse breed development fund** as established by the commission under IC 4-31-11-10 **as follows:**

(1) Forty-eight percent (48%) to standardbred breed development.

(2) Forty-eight percent (48%) to thoroughbred breed development; and

(3) Four percent (4%) to quarter horse breed development.

(Indiana Horse Racing Commission; 71 IAC 12-2-19; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2424; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Nov 29, 2001, 1:20 p.m.: 25 IR 1190; emergency rule filed Aug 22, 2002, 12:41 p.m.: 26 IR 59)

LSA Document #02-251(E)
Filed with Secretary of State: August 22, 2002, 12:41 p.m.

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

LSA Document #02-256(E)

DIGEST

Temporarily amends 540 IAC 1-7-2, 540 IAC 1-8-2, 540 IAC 1-9-2.6, and 540 IAC 1-10-1 to clarify how the fee paid to the administrator of the Indiana CollegeChoice 529 Program is calculated, to clarify the initial and subsequent minimum contribution requirements of the Indiana CollegeChoice 529 Program, to eliminate any notice and cancellation of account requirements due to interruption of attendance, and to eliminate the once a month limitation on distributions from an account. Authority: IC 21-9-4-7. Effective August 29, 2002.

SECTION 1. **Notwithstanding 540 IAC 1-7-2, the program administrator shall charge an annual administrator fee, which shall be based on the value of the assets of the portfolio. The term "portfolio" means the investment selected by the account owner to which account contributions are allocated.**

SECTION 2. **An account owner or contributor must specify an amount to be contributed according to the contribution option chosen by the account owner in the adoption agreement. All contributions, other than initial contributions defined in 540 IAC 1-7-1, must be in an amount not less than twenty-five dollars ($25).**

SECTION 3. **Notwithstanding 540 IAC 1-9-2.6, if the beneficiary interrupts his or her attendance at an institution of higher education, a beneficiary and/or account owner is not required to notify the administrator, and such interruption of attendance shall not cause the cancellation of such beneficiary's account except as provided in 540 IAC 1-9-2.5, if applicable. Interruption of attendance shall mean failure to enroll for the next academic period, excluding summer sessions.**

SECTION 4. **Notwithstanding 540 IAC 1-10-1, for payment benefits from the trust to begin, the account owner shall submit a notice to use program benefits. The payment of benefits shall be made only for qualified higher education expenses, or shall be subject to applicable penalties for nonqualified distributions. All qualified higher education expenses shall be paid:**

(1) directly to the eligible educational institution;

(2) to the beneficiary as directed by the account owner; or

(3) to the account owner.

Payment shall be subject to a minimum distribution amount of fifty dollars ($50).

SECTION 5. **SECTIONS 1 through 4 of this document expire November 27, 2002.**

LSA Document #02-256(E)
Filed with Secretary of State: August 27, 2002, 3:15 p.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-373

Under IC 12-8-3-4.4, LSA Document #01-373, printed at 25 IR 3812, which amends 405 IAC 6-2-3, 405 IAC 6-2-5, 405 IAC 6-2-9, 405 IAC 6-2-12, 405 IAC 6-2-14, 405 IAC 6-2-18, 405 IAC 6-2-20, 405 IAC 6-2-21, 405 IAC 6-3-2, 405 IAC 6-3-3, 405 IAC 6-4-2, 405 IAC 6-5-1, 405 IAC 6-5-2, 405 IAC 6-5-3, 405 IAC 6-5-4, 405 IAC 6-5-5, 405 IAC 6-5-6, 405 IAC 6-6-2, 405 IAC 6-6-3, and 405 IAC 6-6-4 concerning provisions affecting applicants, enrollees, eligibility and enrollment requirements, benefits, and policy for the Indiana prescription drug program. Adds 405 IAC 6-2-5.3, 405 IAC 6-2-5.5, 405 IAC 6-2-12.5, 405 IAC 6-2-16.5, 405 IAC 6-2-20.5, 405 IAC 6-2-22.5, 405 IAC 6-8 and 405 IAC 6-9 concerning provisions that will set forth procedures for point of service processing and provider claims, payments, and appeals for the Indiana prescription drug program. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on August 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-13

Under IC 12-8-3-4.4, LSA Document #02-13, printed at 25 IR 2779, which amends 405 IAC 1-14.6-2, 405 IAC 1-14.6-4, 405 IAC 1-14.6-6, 405 IAC 1-14.6-7, 405 IAC 1-14.6-9, 405 IAC 1-14.6-12, 405 IAC 1-14.6-16, and 405 IAC 1-14.6-22 to revise the case mix reimbursement methodology that the Medicaid program utilizes to reimburse nursing facilities as follows: removes from consideration as allowable cost indirect costs associated with ancillary services provided to non-Medicaid residents; establishes a children's nursing facility designation for Medicaid reimbursement purposes and removes the profit add-on portion of the direct care component for nursing facilities not designated as children's nursing facilities; establishes a minimum occupancy parameter for the direct care, indirect care and administrative rate components; provides for rebasing of Medicaid payment rates every other year, rather than annually; and updates mortgage interest rate parameter used to establish Medicaid reimbursement for capital costs of nursing facilities, was adopted by the Office of the Secretary of Family and Social Services on August 13, 2002. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on June 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-50

Under IC 12-8-3-4.4, LSA Document #02-50, printed at 25 IR 2556, which amends 405 IAC 5-14.1 to limit annual expenditures for Medicaid covered dental services to six hundred dollars ($600) per year for recipients twenty-one (21) years of age and over, was adopted by the Office of the Secretary of Family and Social Services on September 5, 2002. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on May 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-87

Under IC 12-8-3-4.4, LSA Document #02-87, printed at 25 IR 2804, which amends 405 IAC 2-8-1 to add certain nonprobate assets to the definition of "estate" for Medicaid estate recovery purposes. Adds 405 IAC 2-8-1.1 to provide an exception for certain nonprobate assets valued at less than $125,000, was adopted by the Office of the Secretary of Family and Social Services on August 13, 2002. The rule which was adopted is a different version than the proposed rule which was published in the Indiana Register on June 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-121

Under IC 12-8-3-4.4, LSA Document #02-121, printed at 25 IR 3243, was adopted by the Office of the Secretary of Family and Social Services on September 5, 2002. The rule amends 405 IAC 1-18-2 to specify Medicaid reimbursement methodology for Medicare cross-over claims, and repeals 405 IAC 1-18-3. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on July 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-140

Under IC 12-8-3-4.4, LSA Document #02-140, printed at 25 IR 3822, which amends 405 IAC 5-14-2, 405 IAC 5-14-3, 405 IAC 5-14-4, and 405 IAC 5-14-6 to limit the comprehensive

and extensive visits for recipients to two per year, and updates the rule to reflect current operating procedures. Adds 405 IAC 5-14-2.5 to add copayments for dental services, was adopted by the Office of the Secretary of Family and Social Services on September 5, 2002. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on August 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-141

Under IC 12-8-3-4.4, LSA Document #02-141, printed at 25 IR 3825, which amends 405 IAC 5-24-7 to revise copayment structure for drugs reimbursed by Medicaid. Brand name legend drugs will be subject to a three dollar ($3) copayment. Generic legend drugs, all nonlegend drugs, and compounded prescriptions will be subject to a fifty cent ($.50) copayment, was adopted by the Office of the Secretary of Family and Social Services on September 5, 2002. The rule which was adopted is the same version as the proposed rule which was published in the Indiana Register on August 1, 2002.

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-42

LSA Document #02-42, which adds 440 IAC 1.5 concerning the licensure of private mental health institutions, was adopted by the Director of the Division of Mental Health and Addiction, Janet Corson, on August 6, 2002. The rule that was adopted is different from the proposed rule which was published in the Indiana Register on July 1, 2002.

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-105

LSA Document #02-105, which amends 440 IAC 5-1-1, 440 IAC 5-1-2, and 440 IAC 5-1-3.5 concerning community care for individuals who are discharged or transferred from state institutions administered by the division of mental health and addiction, to clarify the gatekeeper's role regarding an individual's entry into and discharge from a state institution, was adopted by the Director of the Division of Mental Health and Addiction, Janet Corson, on August 9, 2002. The rule that was adopted is the same as the proposed rule that was published in the Indiana Register on July 1, 2002.

TITLE 327 WATER POLLUTION CONTROL BOARD

#01-238(WPCB)

The Water Pollution Control Board gives notice that the date of the public hearing for consideration of preliminary adoption of LSA Document #01-238, printed at 25 IR 2633, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on ***October 9, 2002*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on amendments to 327 IAC 6.1, the land application rules.*

The purpose of this hearing is to receive comments from the public prior to the preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, (317)232-3593 or in Indiana (800) 451-6027, press 0, and ask for extension 2-3593.

If the date of this hearing is changed it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 233-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Land Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana and are open for public inspection.

Bruce Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

LSA Document #02-261

Under IC 4-22-2-23, the Oversight Committee on Public Records intends to adopt a rule concerning the following:

OVERVIEW: The intent and scope of this rule will be to amend the microfilming standards currently set forth at 60 IAC 2. Adds 60 IAC 2-2-3.1 concerning the preparation of documents for microfilming and 60 IAC 2-2-5.1 concerning notice and certification of destruction of records. Repeals 60 IAC 2-1-2, 60 IAC 2-1-3, 60 IAC 2-2-6, and 60 IAC 2-2-7. Public comments are invited and may be addressed to the Oversight Committee on Public Records, ATTENTION: Anne Mullin O'Connor, Indiana Government Center-South, W472, Indianapolis, Indiana 46204, or by calling the following telephone number: (317) 233-9435. Statutory authority: IC 5-15-5.1-20(b).

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #02-260

Under IC 4-22-2-23, the Indiana Utility Regulatory Commission intends to adopt a rule concerning the following:

OVERVIEW: Adds 170 IAC 1-6 concerning limits on liability in utility tariffs. Effective 30 days after filing with the secretary of state. Questions concerning the proposed rule may be addressed to the following telephone number: (317) 232-6735. Statutory authority: IC 8-1-1-3(g).

TITLE 210 DEPARTMENT OF CORRECTION

LSA Document #02-259

Under IC 4-22-2-23, the Department of Correction intends to adopt a rule concerning the following:

OVERVIEW: Rules to be amended and/or adopted are as follows: 210 IAC 1-6 Collection, Maintenance, and Release of Offender and Juvenile Records; 210 IAC 1-10 Offender Tort Claim Process; 210 IAC 5 RELEASE AUTHORITY FOR JUVENILES. Questions or comments on the amendment or adoption may be directed by mail to the Department of Correction, ATTENTION: Legal Services Division, Indiana Government Center-South, 302 West Washington Street, Room E334, Indianapolis, Indiana 46204 or by electronic mail to visitors@coa.doc.state.in.us. Statutory authority: IC 11-8-2-5(b)(1); IC 11-8-5-2; IC 11-13-6-2; IC 34-13-3-7(d).

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-277

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends Medicaid regulatory provisions limiting reimbursement for dental services covered by Medicaid. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-3.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-266

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: This rule will establish standards for the certification of food handlers for food establishments and the imposition of penalties for violations. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: Office of Legal Affairs, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-42-5.2-13.

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-265

Under IC 4-22-2-23, the Division of Mental Health and Addiction intends to adopt a rule concerning the following:

OVERVIEW: Amends 440 IAC 9 to establish standards and requirements for community mental health centers and certified managed care providers regarding family support as part of the required continuum of care for persons needing addiction services, persons with serious mental illness, or children with serious emotional disorders. Statutory authority: IC 12-8-8-4; IC 12-21-2-8; IC 12-21-5-1.5.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-264

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

OVERVIEW: Amends 511 IAC 6.2 to bring the school accountability system into alignment with the federal No Child Left Behind Act of 2001. Changes school improvement and performance categories to create expectation of 100% proficiency of all students and identified subgroups of students in 2013–2014. Identifies student subgroups for purposes of reporting and placing schools into school improvement and performance categories. Requires schools to assess 95% of students in identified subgroups on ISTEP+ tests. Adds alternate means of demonstrating improvement for subgroups of students. Defines "full academic year" for purposes of determining if students are included in making decisions about school and school corporation improvement and performance. Adds provisions to implement the statutory requirement to assess school corporation improvement. Statutory authority: IC 20-1-1-6; IC 20-1-1.2-18; IC 20-10.2-7-1.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-274

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

OVERVIEW: Amends 511 IAC 6.1-5.1-8 to add new courses to the list of approved high school fine arts courses. Designates advanced theatre arts as a laboratory course. Statutory authority: IC 20-1-1-6; IC 20-1-1.2-18.

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

LSA Document #02-267

Under IC 4-22-2-23, the Board of Trustees of the Indiana State Teachers' Retirement Fund intends to adopt a rule concerning the following:

OVERVIEW: Amends 550 IAC 3 and 550 IAC 4 to conform to changes made to the Internal Revenue Code by the Economic Growth and Tax Relief Reconciliation Act of 2001. Adds 550 IAC 5 concerning rollovers, service purchases, and enhanced retirement savings opportunities for fund members (Senate Enrolled Act 59). Question or comments on the adoption may be directed by mail to the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite No. 300, Indianapolis, Indiana 46204 or by electronic mail to tdavidson@trf.state.in.us. Statutory authority: IC 21-6.1-3-6.

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

LSA Document #02-270

Under IC 4-22-2-23, the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board intends to adopt a rule concerning the following:

OVERVIEW: Amends 839 IAC 1-3-2 concerning licensure by examination for social workers and clinical social workers; 839 IAC 1-4-5 concerning supervision for marriage and family therapist applicants; and 839 IAC 1-5-1 concerning educational requirements for mental health counselors. Adds 839 IAC 1-5-1.5 concerning experience requirements for mental health counselors. Questions or comments may be directed by mail to the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204, or by electronic mail at wlowhorn@hpb.state.in.us. Statutory authority: IC 25-23.6-2-8.

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

LSA Document #02-271

Under IC 4-22-2-23, the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board intends to adopt a rule concerning the following:

OVERVIEW: Amends 839 IAC 1-2-2.1 concerning licensure retirement and 839 IAC 1-2-5 concerning fees. Questions or comments may be directed by mail to the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204, or by electronic mail at wlowhorn@hpb.state.in.us. Statutory authority: IC 25-23.6-2-8.

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #02-268

Under IC 4-22-2-23, the Medical Licensing Board of Indiana intends to adopt a rule concerning the following:

OVERVIEW: Amends 844 IAC 5-1-1 concerning definitions. Adds 844 IAC 5-3 concerning the appropriate use of the Internet in medical practice. Adds 844 IAC 5-4 concerning prescribing to persons not seen by the physician. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Medical Licensing Board of Indiana, ATTENTION: General Counsel, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204 or by e-mail to bmcnutt@hpb.state.in.us. Statutory authority: IC 25-22.5-2-7.

TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #02-258

Under IC 4-22-2-23, the Indiana Board of Pharmacy intends to adopt a rule concerning the following:

OVERVIEW: The Indiana Board of Pharmacy intends to adopt a rule concerning limited permits for humane societies, animal control agencies, or governmental entities operating an animal shelter; and concerning storage, security, policy, and procedure for access, handling, and administration of Ketamine, Ketamine products, Tiletimine, Zolazepam, and other controlled substances obtained under the limited permit. Public comments are invited. Statutory authority: IC 35-48-3-2.

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

LSA Document #02-269

Under IC 4-22-2-23, the Speech-Language Pathology and Audiology Board intends to adopt a rule concerning the following:

OVERVIEW: Adds 880 IAC 1-2.1 concerning speech-language pathology aides. Repeals 880 IAC 1-2 concerning speech-language pathology aides. Questions or comments may be directed by mail to the Speech-Language Pathology and Audiology Board, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204, or by electronic mail at wlowhorn@hpb.state.in.us. Statutory authority: IC 25-35.6-2-2.

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

Proposed Rule
LSA Document #02-150

DIGEST

Adds 25 IAC 5 concerning minority and women's business enterprises. Repeals 25 IAC 2-19 and 25 IAC 2-20. Effective 30 days after filing with the secretary of state.

25 IAC 2-19
25 IAC 2-20
25 IAC 5

SECTION 1. 25 IAC 5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Rule 1. Scope of Activities

25 IAC 5-1-1 Duties of minority and women's business enterprises division
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13-16.5-2; IC 4-13.6; IC 5-22

Sec. 1. The duties of the minority and women's business enterprises division, hereinafter referred to as the "division", shall be as defined in IC 4-13-16.5-2(f). *(Indiana Department of Administration; 25 IAC 5-1-1)*

25 IAC 5-1-2 Duties of the deputy commissioner, minority and women's business enterprises
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-3; IC 4-13.5-1; IC 4-13.6; IC 4-13-16.5-3; IC 5-22

Sec. 2. The duties of the deputy commissioner of the division shall be as defined in IC 4-13-16.5-3. *(Indiana Department of Administration; 25 IAC 5-1-2)*

25 IAC 5-1-3 Policy statement
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) It is the policy of the state to provide an equal opportunity for existing and operating minority and women's business enterprises to receive and participate in the state's procurement process. The department will act on behalf of the state to actively promote, monitor, and enforce its MBE/WBE program.

(b) The commissioner of the department, through the minority and women's business enterprises section of the department and in concert with the governor's commission on minority and women's business enterprises, shall be the final authority on all matters pertaining to the maintenance and administration of the MBE/WBE program and compliance thereto. *(Indiana Department of Administration; 25 IAC 5-1-3)*

Rule 2. Definitions

25 IAC 5-2-1 Definitions
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) The following definitions apply throughout this article:

(1) "Application for MBE/WBE program waiver" or "application" means the document supplied by prime contractors to the state (usually required at the time of most bid submittals), which requests the contractor's exemption from the contract goal and indicates the reasons why the contractor requires the exemption.

(2) "Broker" means a business entity serving as an intermediary who negotiates contracts of purchase and sale, without assuming any risk of loss.

(3) "Commission" means the governor's commission on minority and women's business enterprises.

(4) "Commissioner" means the deputy commissioner for minority and women's business enterprises of the department.

(5) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

(6) "Contract goal" means a targeted amount of participation as measured by the desired percentage of involvement by minority and women's business enterprises.

(7) "Contractor" means a person or business entity who contracts with a state agency to provide goods or services.

(8) "Department" means the Indiana department of administration.

(9) "MBE/WBE program waiver" or "waiver" means the document supplied by the state to the prime contractor that approves the application for MBE program waiver.

(10) "MBE/WBE subcontractor plan" or "plan" means the document supplied by prime contractors to the state (usually required at the time of most bid submittals), which indicates the means whereby the minority business participation will be attained.

(11) "Minority business enterprise" or "MBE" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(A) United States citizens; and

(B) members of a minority group.

(12) "Minority group" means the following:

(A) Blacks.

(B) American Indians.

(C) Hispanics.

(D) Asian Americans.

(E) Other similar minority groups as defined by 13 CFR 124.103.

(13) "Offeror" means any business entity that makes an offer to enter into a binding contract for the provision of materials or services to a state agency.
(14) "Owned and controlled" means having:
(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
(B) control over the management and active in the day-to-day operations of the business; and
(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.
(15) "Program" means the minority and women's business enterprises program as administered by the department.
(16) "Qualifying member" means an individual who is socially disadvantaged.
(17) "Socially disadvantaged" or "disadvantaged" means an individual who has been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control. Being born in a country does not, by itself, suffice to make the birth country an individual's country of origin for purposes of being included within a designated group.
(18) "State agency" means any of the following:
(A) An authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative department of state government.
(B) An entity established by the general assembly as a body corporate and politic.
(C) A state educational institution.
The term does not include the state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises.
(19) "Subcontractor" or "second tier contractor" means any person entering into a contract with a prime vendor to directly furnish services or supplies toward the contract.
(20) "Supplier" or "distributor" means any business entity supplying materials, but no significant on-site labor is contributed in furtherance of the contract or to a vendor.
(21) "Vendor" means any person or business entity that has entered into a binding contract for the provision of materials or services to a state agency.
(22) "Women's business enterprise" or "WBE" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:
(A) United States citizens; and
(B) whose gender is female.

(b) A reference to a federal statute or regulation is a reference to the statute or regulation as in effect January 1, 2001.

(c) The department may develop policies and procedures for certain industries to further define certification status as needs arise.

(d) Notwithstanding this section, with reference to business certification status as a broker or supplier, historic purchasing practices, standards for the industry, and other criteria such as risk of loss may be considered. *(Indiana Department of Administration; 25 IAC 5-2-1)*

Rule 3. Certification Standards

25 IAC 5-3-1 Certification policy
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. The department will act on behalf of the state to actively promote, monitor, and enforce the standards for certification of minority and women's business enterprises defined in this article. *(Indiana Department of Administration; 25 IAC 5-3-1)*

25 IAC 5-3-2 Burden of proof allocations in the process
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) In determining whether to certify a firm as eligible to participate as an MBE or WBE, the department must apply the standards of this section.

(b) The firm seeking certification has the burden of demonstrating, by a preponderance of the evidence, that it meets the requirements of this section concerning group membership, business size, ownership, and control.

(c) The applicant is the qualifying member whose participation is relied upon to meet the ownership requirements.

(d) The department must make determinations concerning whether the applicant has met the burden of demonstrating group membership, business size, ownership, and control by considering all the facts in the record, viewed as a whole. *(Indiana Department of Administration; 25 IAC 5-3-2)*

25 IAC 5-3-3 Group membership determinations
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) In determining whether the socially disadvantaged participants in a firm own the firm, the department must consider all the facts in the record, viewed as a whole.

(b) The following are requirements to demonstrate socially disadvantaged:

(1) The department must rebuttably presume that citizens of the United States who are women or minority, as defined in this article, are socially disadvantaged individuals. The department may require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially disadvantaged.
(2) If the department has reason to question whether an individual is a member of a group that is presumed to be socially disadvantaged, it must require the individual to demonstrate, by a preponderance of the evidence, that he or she is a member of the group.
(3) If the department has reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially disadvantaged, it may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. The department's proceeding must follow the procedures of 25 IAC 5-4.
(4) In such a proceeding, the department has the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially disadvantaged. The department may require the individual to produce information relevant to the determination of his or her disadvantage.
(5) In making such a determination, the department must consider whether the person has held himself or herself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. The department may require the applicant to produce appropriate documentation of group membership as follows:
(A) If the department determines that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social disadvantage on an individual basis.
(B) The department's decisions concerning membership in a designated group are subject to the certification appeals procedure of 25 IAC 5-4.
(6) When an individual's presumption of social disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of MBE or WBE eligibility under this section unless and until he or she makes an individual showing of social disadvantage.
(Indiana Department of Administration; 25 IAC 5-3-3)

25 IAC 5-3-4 Business size determinations
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4 (a) In determining whether the socially disadvantaged participants in a firm own the firm, the department must consider all the facts in the record, viewed as a whole.

(b) To be an eligible MBE or WBE, a firm (including its affiliates) must be an existing and operating small business, as defined by United States Small Business Administration (SBA) standards. The department must apply size standards found in 13 CFR 121, appropriate to the type of work the firm seeks to perform.

(c) Even if it meets the requirements of subsection (a), a firm is not an eligible MBE or WBE in any federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three (3) fiscal years, in excess of sixteen million six hundred thousand dollars ($16,600,000). The commissioner may adjust this amount for inflation from time to time.

(d) A reference to a federal statute or regulation is a reference to the statute or regulation as in effect January 1, 2001. *(Indiana Department of Administration; 25 IAC 5-3-4)*

25 IAC 5-3-5 Ownership determinations
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In determining whether the socially disadvantaged participants in a firm own the firm, the department must consider all the facts in the record, viewed as a whole.

(b) To be an eligible MBE or WBE, a firm must be at least fifty-one percent (51%) owned by socially disadvantaged individuals. In the case of a:
(1) corporation, such individuals must own at least fifty-one percent (51%) of each class of voting stock outstanding and fifty-one percent (51%) of the aggregate of all stock outstanding;
(2) partnership, fifty-one percent (51%) of each class of partnership interest must be owned by socially disadvantaged individuals, and such ownership must be reflected in the firm's partnership agreement; and
(3) limited liability company, at least fifty-one percent (51%) of each class of member interest must be owned by socially disadvantaged individuals.

(c) The firm's ownership by socially disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.

(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this subsection, no securities or assets held in trust, or by any guardian for a minor, are considered as

held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm if either of the following apply:

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual.

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policymaking, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be as follows:

(A) In a specialized field.

(B) Of outstanding quality.

(C) In areas critical to the firm's operations.

(D) Indispensable to the firm's potential success.

(E) Specific to the type of work the firm performs.

(F) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) The department must always deem as held by a socially disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual:

(1) as the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) through inheritance, or otherwise because of the death of the former owner.

(h) The following are requirements to determine ownership:

(1) The department must presume as not being held by a socially disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any nondisadvantaged individual or non-MBE or WBE firm who is:

(A) involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(B) involved in the same or a similar line of business; or

(C) engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate, by clear and convincing evidence, that:

(A) the gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a MBE or WBE; and

(B) the disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who provided the gift or transfer.

(i) The department must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, the ownership interest in the firm must been deemed to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. The department may not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for MBE or WBE certification.

(3) The department must take into consideration financial implications of the transfer/renouncement. For example, if the renouncement is for rights to a home, the applicant shall provide documentation of the transfer with mortgage holder.

(j) The department will consider the following factors in

determining the ownership of a firm, however, it must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because:

(1) A socially disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in subsection (h).

(2) There is a provision for the co-signature of a spouse who is not a socially disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents.

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially disadvantaged individual to a spouse who is such an individual. In this case, the department must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially disadvantaged individual.

(k) The following are requirements for joint venture:

(1) A joint venture shall be eligible for the program when the MBE partner of the joint venture meets the standards in this section and the MBE shares in at least sixty percent (60%) of the ownership, control, management responsibilities, risks, and profits of the joint venture and when the MBE partner is responsible for a clearly defined portion of the work to be performed.

(2) In a case where a change of ownership or the death of an owner has occurred within the MBE or the MBE joint venture, the department shall reserve the right to review the new ownership structure to determine whether or not continued program eligibility is warranted. Therefore, the MBE or MBE joint venture partner shall notify the department within thirty (30) days of all ownership changes. Failure to submit this notification may result in suspension of certification status.

(Indiana Department of Administration; 25 IAC 5-3-5)

25 IAC 5-3-6 Control determinations

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 6. (a) In determining whether socially disadvantaged owners control a firm, the department must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a MBE or WBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential MBE or WBE is an independent business, the department must scrutinize relationships with non-MBE or WBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) The department must consider whether present or recent employer/employee relationships between the disadvantaged owner of the potential MBE or WBE and non-MBE or WBE firms or persons associated with non-MBE or WBE firms compromise the independence of the potential MBE or WBE firm.

(3) The department must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential MBE or WBE firm.

(4) In considering factors related to the independence of a potential MBE or WBE firm, the department must consider the consistency of relationships between the potential MBE or WBE and non-MBE or WBE firms with normal industry practice.

(c) An MBE or WBE firm must not be subject to any formal or informal restrictions that limit the customary discretion of the socially disadvantaged owners. There can be no restrictions through corporate charter provisions, bylaw provisions, contracts, or any other formal or informal devices, for example, cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by nondisadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, or restrictions on or assignments of voting rights, that prevent the socially disadvantaged owners, without the cooperation or vote of any nondisadvantaged individual, from making any business decision of the firm. This subsection does not preclude a spousal co-signature on documents as provided for in this section.

(d) The socially disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long term decisions on matters of management, policy, and operations.

(1) A disadvantaged owner must hold the highest officer position in the company, for example, chief executive officer or president.

(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one (1) or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially disadvantaged may be involved in an MBE or WBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially disadvantaged individuals. Such delegations of authority must be revocable, and the socially disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially disadvantaged owners in the firm's overall affairs must be such that the department can reasonably conclude that the socially disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially disadvantaged persons who own and control a potential MBE or WBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, the department must not deny certification solely on the ground that the person lacks the license or credential. However, the department may take into account the absence of the license or credential as one (1) factor in determining whether the socially disadvantaged owners actually control the firm.

(i) The following are requirements for difference in remuneration:

(1) The department may consider differences in remuneration between the socially disadvantaged owners and other participants in the firm in determining whether to certify a firm as a MBE or WBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. The department may determine that a firm is controlled by its socially disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

(2) In a case where a nondisadvantaged individual formerly controlled the firm, and a socially disadvantaged individual now controls it, the department may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the nondisadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k) The following are requirements concerning control of a firm:

(1) A socially disadvantaged individual may control a firm even though one (1) or more of the individual's immediate family members (who themselves are not socially disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this subsection, the department must make a judgment about the control the socially disadvantaged owner exercises vis-a-vis other persons involved in the business as it does in other situations, without regard to whether or not the other persons are immediate family members.

(2) If the department cannot determine that the socially disadvantaged owners, as distinct from the family as a whole, control the firm, then the socially disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a nondisadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially disadvantaged individual, and the nondisadvantaged individual remains involved with the firm in any capacity, the disadvantaged individual now owning the firm must demonstrate, by clear and convincing evidence, the following:

(1) The transfer of ownership and/or control to the

disadvantaged individual was made for reasons other than obtaining certification as an MBE or WBE.
(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially disadvantaged owners, the department may consider whether the firm owns equipment necessary to perform its work. However, the department must not determine that a firm is not controlled by socially disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) The department must grant certification to a firm only for specific types of work in which the socially disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm must have been certified for at least six (6) months in its current type of work, or certified by the department for at least one (1) year, and demonstrate that its socially disadvantaged owners are able to control the firm with respect to the newly-requested type of work. The department may not, in this situation, require that the firm be recertified or submit a new application for certification, but it must verify the qualifying owner's control of the firm in the additional type of work. However, the department must apply the same standards to additional types of work that were applied originally. These additional work areas are not guaranteed simply because the firm is currently certified. Further, there is a presumption against having more than three (3) industry variations in the same business entity.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this part and the franchiser or licenser is not affiliated with the franchisee or licensee. In determining whether affiliation exists, the department should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by qualified individuals, any nonqualifying partners must not have the power, without the specific written concurrence of the socially disadvantaged partner, to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The socially disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

(r) There is a presumption against the ability to operate and control more than three (3) business entities within the context of this article. *(Indiana Department of Administration; 25 IAC 5-3-6)*

25 IAC 5-3-7 Other rules affecting certification
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 7. (a) Consideration of whether a firm performs a commercially useful function may be a consideration used by the department in making decisions about whether to certify a firm as a MBE or WBE.

(b) The department may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the MBE or WBE program.

(c) The department must evaluate the eligibility of a firm on the basis of present circumstances. It must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part. Nor must it refuse to certify a firm solely on the basis that it is a newly formed firm. Standards regarding newly formed firms can be found in subsection (j).

(d) MBE OR WBE firms and firms seeking MBE OR WBE certification shall cooperate fully with the department's requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification pursuant to 25 IAC 5-4.

(e) Firms organized for-profit or not-for-profit may be eligible MBE or WBEs. Certification standards regarding not-for-profit organizations are found in section 10 of this rule.

(f) An eligible MBE or WBE firm must be owned by individuals who are socially disadvantaged. Except as provided in this subsection, a firm that is not owned by such individuals, but instead is owned by another firm, even an MBE or WBE firm, cannot be an eligible MBE or WBE.

(1) If socially disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization, or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, the department may certify the subsidiary if it otherwise meets all requirements of this subdivision. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) The department may certify such a subsidiary only if there is cumulatively fifty-one percent (51%) ownership of the subsidiary by qualifying individuals. The following examples illustrate how this cumulative ownership provision works:

(A) Qualifying individuals own one hundred percent (100%) of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

(B) Qualifying individuals own one hundred percent (100%) of the holding company, which owns fifty-one percent (51%) of a subsidiary. The subsidiary may be certified, if all other requirements are met.

(C) Qualifying individuals own eighty percent (80%) of the holding company, which in turn owns seventy percent (70%) of a subsidiary. In this case, the cumulative ownership of the subsidiary by qualifying individuals is fifty-six percent (56%) (eighty percent (80%) of the seventy percent (70%)). This is more than fifty-one percent (51%), so the department may certify the subsidiary, if all other requirements are met.

(D) Same as examples in clause (B) or (C), but someone other than the qualifying owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by qualifying individuals, through the holding or parent company, the department cannot certify it because it fails to meet control requirements.

(E) Qualifying individuals own sixty percent (60%) of the holding company, which in turn owns fifty-one percent (51%) of a subsidiary. In this case, the cumulative ownership of the subsidiary by qualifying individuals is about thirty-one percent (31%). This is less than fifty-one percent (51%), so the department cannot certify the subsidiary.

(F) The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of 13 CFR 121.402. Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(g) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially disadvantaged individuals.

(h) The department must not require an MBE or WBE firm to be prequalified as a condition for certification. However, if the prequalification is industry/trade-specific, the department must require all firms that participate in its contracts and subcontracts related to that area to be prequalified.

(i) A firm that is owned by an Indian tribe, Alaska native corporation, or native Hawaiian organization as an entity, rather than by Indians, Alaska natives, or native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of 13 CFR 121.402. Such a firm must be controlled by socially disadvantaged individuals, as provided in this article.

(j) The applicant must possess reasonable prospects for success in competing in the public sector. To do so, it must be in business in its selected areas of certification for at least two (2) full years immediately prior to the date of its application unless a waiver for this requirement is granted pursuant to subsection (b).

(1) Income tax returns for each of the two (2) previous tax years must show operating revenues in the selected types of work for which the applicant is seeking certification.

(2) The department may waive the two (2) years in business requirement if each of the following conditions are met:

(A) The socially disadvantaged individual or individuals upon whom eligibility is based have substantial business management experience.

(B) The socially disadvantaged applicant has demonstrated technical experience to carry out its business venture.

(C) The applicant has a record of successful performance on contracts from governmental or nongovernmental sources in its primary area of certification.

(D) The applicant has, or can demonstrate its ability to timely obtain, the personnel, facilities, equipment, and any other requirements needed to perform contracts.

(k) An applicant has an affirmative obligation to disclose any and all material and relevant information affecting a firm's certification. Any misrepresentation or omission made with respect to an application may be grounds for denial of the application.

(l) An applicant can submit a maximum of two (2)

applications per year. At any time, only one (1) application can be pending. *(Indiana Department of Administration; 25 IAC 5-3-7)*

25 IAC 5-3-8 Rules affecting the certification process

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 8. (a) Certification process requirements are as follows:

(1) At a minimum, the Department must take the following steps in determining whether a firm meets the standards for certification as an MBE or WBE:

(A) The following for on-site visits:

(i) Make on-site visits to company headquarters with little or no advance notice in its efforts to make accurate judgments about the ownership and control of the subject MBE or WBE. The department must interview the principal officers of the firm and review their resumes and/or work histories. The department may also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in its jurisdiction or local area.

(ii) With regards to out-of-state firms, the department will rely upon the site visit report of other recognized governmental entities with respect to a firm applying for certification.

(B) If the firm is a corporation, analyze the ownership of stock in the firm.

(C) Analyze the bonding and financial capacity of the firm.

(D) Determine the work history of the firm, including contracts it has received and work it has completed.

(E) Obtain a statement from the firm of the type of work it prefers to perform as part of the MBE or WBE program and its preferred locations for performing the work, if any.

(F) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the program.

(G) Require potential firms to complete and submit an appropriate application form.

(2) The department must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(3) The department must review all information on the form prior to making a decision about the eligibility of the firm.

(4) The department must request, at any time that it deems necessary, further information or clarification of any claims or issues that may lend reasonable doubt to the legitimacy of the subject MBE or WBE.

(5) The department must conduct preliminary audits of accounting records, project files, and any legal documents that may be pertinent or relevant to the establishment of legitimacy of the subject MBE or WBE.

(6) The department must make recommendations to the appropriate agencies and departments based on the findings of all reviews, interviews, site visits, and audits regarding the qualifications and legitimacy of the subject MBE or WBE.

(7) Make recommendations to the appropriate agencies for further investigation if misrepresentation is suspected.

(8) The department must make decisions on applications for certification within ninety (90) days of the determination that the applicant firm has submitted all information required under this part. The department may extend this time period once, for no more than an additional sixty (60) days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. Failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal under 25 IAC 5-4.

(9) Other certification information, as provided in the department's certification manual.

(b) Applications from MBE or WBE firms domiciled outside of Indiana require the following, in addition to the items in this article:

(1) The firm must be currently certified and in good standing with a governmental entity in its home state.

(2) The home state shall provide the on-site interview that was conducted in association with the certification. Certification of out-of-state applicants by the department is conditional to the out-of-state applicant meeting the standards of certification set forth in this article. The department reserves the right to grant or deny certification to an MBE or WBE with current, in-place certification status with other governmental agencies and departments with recognized certification authority.

(c) Confidentiality requirements are as follows:

(1) The department must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable federal, state, and local law.

(2) If a vendor wishes to be certified by another certification entity, the vendor will be required to submit a written notice advising the office of the same. The office will then respond to requests for certification information from the previously identified agencies. The information that will be available will include application materials

and the report of a site visit, upon request. Transmission of financial data must be specifically requested. The department will respond to two (2) requests at no charge to the vendor. However, the department cannot bear the expense of additional copies, and will assess a fee of ten cents ($0.10) per copy plus postage for the information being forwarded.

(d) Once the department has certified an MBE or WBE, the firm shall remain certified for a period of at least three years unless and/or until its certification has been removed through the procedures of 25 IAC 5-4. The department may not require firms to reapply for certification as a condition of continuing to participate in the program during this three (3) year period unless the factual basis on which the certification was made changes. *(Indiana Department of Administration; 25 IAC 5-3-8)*

25 IAC 5-3-9 Rules affecting the firm's responsibility after being certified

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 9. (a) Firm's responsibilities after certification include, but may not be limited to this section.

(b) A certified firm must inform the department in writing of any change in circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in the application form.

(1) Changes in contact information must be reported, including address, telephone number, and personnel.

(2) Management responsibility among members of a limited liability company are covered by this requirement.

(3) Supporting documentation must be attached describing in detail the nature of such changes.

(4) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. Written notification must be provided within thirty (30) days of the occurrence of the change. Failure to make timely notification of such a change will be deemed to be failure to cooperate under section 7(d) of this rule.

(c) A certified firm must provide, every year on the anniversary of the date of its certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this subsection or any material changes in the information provided in its application form, except for changes about which the firm has notified the department under subsection (b). The affidavit shall specifically affirm that the firm continues to meet Small Business Administration business size criteria and the overall gross receipts cap of this subsection, documenting this affirmation with supporting documentation of the firm's size and gross receipts. Failure to provide this affidavit in a timely manner will be deemed to have failed to cooperate under section 7(d) of this rule. *(Indiana Department of Administration; 25 IAC 5-3-9)*

25 IAC 5-3-10 Certification of not-for-profit organizations

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 10. Firms that are established as not-for-profit organizations may be certified as MBE and/or WBE firms. The standards for certification of the firm as the same as those set forth in this section, with the following exceptions:

(1) The applicant will be the highest ranking official working in the firm on a day-to-day basis.

(2) Business size will be waived.

(Indiana Department of Administration; 25 IAC 5-3-10)

Rule 4. Certification Denials and Challenges

25 IAC 5-4-1 General provisions

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3-5; IC 5-22

Sec. 1. (a) This rule applies to the following situations:

(1) A firm whose application for certification as a minority or women's business enterprise has been denied.

(2) A complaint has been issued to a challenged enterprise concerning the possible revocation of its certification.

(3) A firm whose challenge to the certification of a minority or women's business enterprise has been denied.

(b) As used in this rule, "petitioner" means the person whose application for certification as a minority or women's business enterprise has been denied, or whose challenge to the certification of a minority or women's business enterprise has been denied.

(c) An action involving a denial of a certification or challenge to a certification under this rule shall also comply with IC 4-21.5-3.

(d) All proceedings under this section are deemed to be a determination of status as defined by IC 4-21.5-3-5.

(e) All certification determinations issued pursuant to proceeding under this section shall be deemed advisory or recommended orders.

(f) The ultimate authority under this article as defined by IC 4-21.5-3 is the commissioner of the department.

(g) Procedural matters regarding hearings under this section shall comply with section 5 of this rule.

(h) Notwithstanding any provision to the contrary contained in this article, the department reserves the right to deny certification to out-of-state firms if their home state does not afford certification for Indiana firms. *(Indiana Department of Administration; 25 IAC 5-4-1)*

25 IAC 5-4-2 Department's denials of initial requests for certification

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3-7; IC 5-22

Sec. 2. (a) When the department denies a request by a firm, which is not currently certified, to be certified, the department must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) When a firm is denied certification, it cannot reapply for certification for twelve (12) months. The time period for reapplication begins to run on the later of the following events:

(1) On the date the explanation required by subsection (a) is received by the firm.
(2) Final order issued by the ultimate authority.

(c) A person who has been denied certification as a minority or women's business enterprise may request a hearing under IC 4-21.5-3-7.

(d) Requests for hearings must be submitted within fifteen (15) days after service of notice of denial of the certification or the challenge to a certification in accordance with IC 4-21.5-3.

(e) If a firm withdraws its application prior to notice of denial of certification, the firm may not reapply for six (6) months from the date the notice of withdrawal of application is received by the department. *(Indiana Department of Administration; 25 IAC 5-4-2)*

25 IAC 5-4-3 Department's removal of a firm's eligibility

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) This section establishes standards for processing a complaint issued to a challenged enterprise concerning the possible revocation of its certification.

(b) Requirements for ineligibility complaints are as follows:

(1) Any person may file with the department a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. The department is not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified.
(2) The department must review its records concerning the firm, any material provided by the firm and the complainant, and other available information. The department may request additional information from the firm or conduct any other investigation that you deem necessary.
(3) If the department determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, the department must provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If the department determines that such reasonable cause does not exist, it must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) If, based on notification by the firm of a change in its circumstances or other information that comes to the attention of the department that there is reasonable cause to believe that a currently certified firm is ineligible, the department must provide written notice to the firm that it proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(d) Requirements for complaints from other state agencies are as follows:

(1) If a concerned state agency determines that information in your certification records, or other information available to that agency, provides reasonable cause to believe that a certified firm does not meet the eligibility criteria of this subsection, the concerned state agency may request that the department initiate a proceeding to remove the firm's certification.
(2) The concerned state agency must provide the department any relevant documentation or other information.

(e) When the department notifies a firm that there is reasonable cause to remove its eligibility, as provided in subsection (a), (b), or (c), the department must give the firm

an opportunity for a hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(f) The firm may elect to present information and arguments, in writing, without going to a hearing. In such a situation, the department bears the burden of proving that the firm does not meet the certification standards by a preponderance of the evidence, as you would during a hearing.

(g) Hearing requirements are as follows:

(1) In such a proceeding, the department bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this rule.

(2) The department must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(h) For separation of functions, you must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(i) The department must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the department at the time of its certification of the firm. It may base such a decision only on one (1) or more of the following:

(1) Changes in the firm's circumstances since the certification of the firm by the department that render the firm unable to meet the eligibility standards of this rule.

(2) Information or evidence not available to the department at the time the firm was certified.

(3) Information that was concealed or misrepresented by the firm in previous certification actions by a department.

(4) A change in the certification standards or requirements since the firm was certified.

(5) A documented finding that the department's determination to certify the firm was factually erroneous.

(j) Requirements for status of firms during proceedings are as follows:

(1) A firm remains an eligible MBE or WBE status during the pendancy of the department's proceeding to remove its eligibility.

(2) The firm does not become ineligible until a notice revoking certification is issued by the commissioner of the department.

(k) When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or there has been made a commitment to use the firm as a prime contractor, but a subcontract or contract has not been executed before the decertification notice provided for in subsection (j) has been issued, the ineligible firm does not count toward the contract goal or overall goal. The prime contractor is to meet the contract goal with an eligible firm or demonstrate that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before the department has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its goal for the firm's work. In this case, or in a case where a prime contract has been awarded to a firm that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the notice of its ineligibility shall not count toward the overall goal, but may count toward the contract goal.

(3) If the firm's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, the department will count its participation on that contract toward overall and contract goals.

(Indiana Department of Administration; 25 IAC 5-4-3)

25 IAC 5-4-4 Procedures when a challenge is not accepted

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3-7; IC 5-22

Sec. 4. (a) If you are a complainant in an ineligibility complaint to the department, you may appeal if the department does not find reasonable cause to propose removing a firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(b) A complainant may request a hearing under IC 4-21.5-3-7. Requests for hearings must be submitted within fifteen (15) days after service of notice of denial of the certification or the challenge to a certification in accordance with IC 4-21.5-3. *(Indiana Department of Administration; 25 IAC 5-4-4)*

25 IAC 5-4-5 Procedural issues

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3; IC 5-22

Sec. 5. Procedural matters are not addressed in this title shall be governed by the Indiana rules of trial procedure. The following procedural matters shall comply with IC 4-21.5-3:

(1) Appearances and service.

(2) Discovery.

(3) Subpoenas.
(4) Prehearing.
(5) Motions for summary judgment and other appropriate motions.
(6) Depositions.
(7) Continuances.
(8) Evidence.
(9) Matters concerning ex parte communication.
(10) Matters concerning sanctions and penalties.
(11) Transmittal of the record and recommendation to the ultimate authority shall comply with IC 4-21.5-3.
(12) A petitioner must afford the department an opportunity to investigate and verify information or documents that the petitioner intends to offer in support of his or her case. The petitioner shall not be permitted to introduce into evidence any information or documents that the department has not been afforded the opportunity to investigate and verify.
(Indiana Department of Administration; 25 IAC 5-4-5)

25 IAC 5-4-6 Proceedings
Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5; IC 4-33

Sec. 6. (a) The burden of proof shall at all times be on the petitioner in either of the following situations:
(1) The petitioner is appealing the denial of an application for certification under this rule.
(2) The petitioner is appealing the denial of a challenge to a minority or women's business enterprise certification under this rule.
The petitioner shall have the affirmative responsibility of establishing by a preponderance of the evidence that the application for certification should not have been denied or that the challenge to a certification should not have been denied.

(b) The burden of proof shall at all times be on the department if the department has filed a complaint indicating the department seeks to revoke a challenged enterprise's certification. The department shall have the affirmative responsibility of establishing by a preponderance of the evidence that the challenged enterprise does not meet the requirements of the act and this title for certification as a minority or women's business enterprise.

(c) Any testimony shall be given under oath or affirmation. The administrative law judge shall be authorized to administer oaths.

(d) Both parties may present an opening statement on the merits. The party who bears the burden of proof proceeds first. The party not bearing the burden of proof may not reserve opening statement for a later time. The administrative law judge may determine the length of time each party is permitted for the presentation of an opening statement.

(e) The party bearing the burden of proof shall then present its case-in-chief.

(f) Upon the conclusion of the case-in-chief presented by the party bearing the burden of proof, the other party may move for a directed finding. The administrative law judge may hear arguments on the motion or may grant, deny, or reserve any decision thereon, with or without argument.

(g) If no motion for directed finding is made, or if such motion is denied or decision reserved thereon, the party not bearing the burden of proof may present its case.

(h) Each party may conduct cross-examination of adverse witnesses.

(i) Upon conclusion of the case of the party not bearing the burden of proof, the party bearing the burden of proof may present evidence in rebuttal.

(j) The administrative law judge may ask questions of the witnesses and may request or allow additional evidence at any time, including additional rebuttal evidence.

(k) Both parties may present closing argument. The party bearing the burden of proof proceeds first, and, thereafter, the opposing party. The party bearing the burden of proof may present rebuttal argument. The administrative law judge may determine the length of time each party is permitted for the presentation of closing argument.

(l) The administrative law judge may require or allow the parties to submit posthearing briefs, proposed findings of fact, and conclusions of law within ten (10) days of the conclusion of the hearing or within such other time period the administrative law judge might order.

(m) Notwithstanding any other provision in this article to the contrary, evidence presented at any hearing or review conducted under this article shall be confined to the information available to the department at the time its decision was issued. *(Indiana Department of Administration; 25 IAC 5-4-6)*

Rule 5. MBE/WBE Participation in Procurement and Contracting; Prime Contractors

25 IAC 5-5-1 Policy; procurement and contracting
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. It is the policy of the state to provide an equal opportunity for minority and women's business enterprises to participate in the state's procurement and contracting processes as prime contractors. *(Indiana Department of Administration; 25 IAC 5-5-1)*

25 IAC 5-5-2 Activities to achieve participation
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. The department shall perform activities to provide minority and women's business enterprises the opportunity to participate in the state's award of purchases and contracts. *(Indiana Department of Administration; 25 IAC 5-5-2)*

25 IAC 5-5-3 Outreach and assessment
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) The department shall perform activities to outreach to minority and women's business enterprises. The department shall assess where and when the programs are most valuable to these enterprises.

(b) The department shall provide information on qualifications necessary for firms to compete for bid opportunities. *(Indiana Department of Administration; 25 IAC 5-5-3)*

25 IAC 5-5-4 Promoting MBE/WBE participation as prime contractors
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. The department shall provide and promote opportunities for minorities and women to participate in procurement and contracting opportunities as prime vendors. *(Indiana Department of Administration; 25 IAC 5-5-4)*

25 IAC 5-5-5 Monitoring MBE/WBE participation as prime contractors
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In monitoring MBE/WBE participation in prime contract awards, the department shall do the following as it pertains to nonadvertised procurements and contracting bids:

(1) Establish a standard method to record solicitations of these procurements.

(2) The form for such recording should include, but not be limited to, the following:

(A) Information on the contractors contacted, including name, address, telephone number, fax, and e-mail.

(B) The contractors' ethnicity and gender.

(C) Whether or not the contractor is a small business.

(D) Whether or not the contractor is new to the state's procurement process.

(E) The contractor's bid amount (or that the contractor chose not to bid).

(F) The person completing the form.

(G) The personnel responsible for the solicitation.

(b) To monitor MBE/WBE participation in prime contract awards, the department shall do the following as it pertains to contracts other than nonadvertised procurements and contracting bids:

(1) Monitor the lists of firms bidding to develop potential strategies to increase the number of bidders. The form for such recording should include, but not be limited to, the following:

(A) Information on the contractors, including name, address, telephone number, fax, and e-mail.

(B) The contractors' ethnicity and gender.

(C) The reason or reasons the company has chosen not to bid.

(2) Establish a system to debrief bidders who do not win state contracts. The method of debriefing may include one (1) or more of the following:

(A) Provide feedback to MBE/WBE bidders and/or small firms, in general, to ensure they are aware of the availability of information regarding bid tabulations.

(B) Work with small business assistance organizations to counsel MBE/WBE bidders and/or small firms, in general, on strengthening future proposals and/or understanding of state requirements.

(3) Maintain a list of bidders, consisting of information regarding all firms that bid or quote contracts. This list shall be used to compile and track those firms who have shown an interest in participating in the state's procurement and contracting processes. The information to be compiled shall include, but may not be limited to, the following:

(A) Company name, address, phone number, fax, and e-mail.

(B) Owner's name, gender, and ethnicity.

(C) If new to the state bid process, age of firm and gross annual receipts.

(D) For this bid, name of proposed subcontractors proposed, including, for each company, the company's name, owner's name, gender, and ethnicity.

(Indiana Department of Administration; 25 IAC 5-5-5)

25 IAC 5-5-6 Reporting MBE/WBE participation as prime contractors
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 6. All state agencies, as defined in IC 4-13-16.5-1, shall report to the department its award of prime contracts to MBEs and WBEs on a quarterly basis. The form of the report shall be in compliance with policies and procedures of the department. *(Indiana Department of Administration; 25 IAC 5-5-6)*

Rule 6. MBE/WBE Participation in Procurement and Contracting; Subcontractors

25 IAC 5-6-1 Promoting MBE/WBE participation as subcontractors
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. The department shall provide and promote opportunities for minorities and women to participate in procurement and contracting opportunities as subcontractors. *(Indiana Department of Administration; 25 IAC 5-6-1)*

25 IAC 5-6-2 Monitoring MBE/WBE participation as subcontractors

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) In monitoring MBE/WBE participation as subcontractors, the department shall conduct pre-project meetings with all subcontractors and prime contractors. The department shall determine which projects will require a pre-project meeting. Items of discussion at the meeting shall include, but may not be limited to, the following:

(1) Subcontractors will learn when their services are likely to be needed.

(2) The department will explain the state's prompt payment program.

(3) The department will provide a review of MBE/WBE program requirements.

(4) The department will explain the state's nondiscrimination and antidiscrimination laws.

(b) Require prime contractors to include an explanation for how MBEs and WBEs will be used with all amendments and/or change order requests, and the percentage represented above the current contract amount.

(c) Notify subcontractors when contracts are revised upward through amendments and/or change orders.

(d) All prime contractors, including MBE and WBE prime contractors, must meet the contract goals through use of subcontractors. MBE and WBE prime contractors will get no credit toward the contract goal for the use of their own workforce. *(Indiana Department of Administration; 25 IAC 5-6-2)*

25 IAC 5-6-3 Reporting MBE/WBE participation as subcontractors

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. In addition to requirements mentioned in other areas of the part, prime contractors shall be required to report all subcontractor participation, that is, MBE/WBE subcontractors and non-MBE/WBE subcontractors. The report shall include, but may not be limited to, the following:

(1) Company name, address, telephone number, fax, and e-mail.

(2) Owner's name, gender, and ethnicity.

(3) Name of contact person employed by the firm.

(4) Work the firm will perform and the approximate date when the subcontractors' work will commence (individually).

(5) Contract amount for services to be performed (individually).

(Indiana Department of Administration; 25 IAC 5-6-3)

25 IAC 5-6-4 Procedure for subcontractor bid submission

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. (a) In a case where the bidder has arranged to subcontract one hundred percent (100%) or more of the subcontractor goal to MBEs and WBEs, a completed MBE/WBE subcontractor plan shall be submitted, along with the other required bid documents, as prescribed.

(1) All MBE and WBE subcontractors must be validated by the department prior to the award of the contract. The completed plan shall include the following information:

(A) Name of the firm to be employed.

(B) Phone number of the firm.

(C) Name of a contact person from the firm.

(D) Work the firm will perform and the approximate date when the MBEs work will commence.

(E) Contract amount for services that will be performed.

(2) In a case where the bidder has had the MBE/WBE subcontractor plan approved, where that bidder has been awarded the contract, and where the awarded contract is one hundred thousand dollars ($100,000) or more, the bidder shall submit participation reports monthly, or at more frequent intervals, as may be requested.

(3) The department reserves the right to periodically require progress reports from the contractor on projects under one hundred thousand dollars ($100,000) regarding continuing MBE and WBE participation.

(b) Purchases from MBE suppliers are allowed for MBE credit in the program. The maximum allowable credit will be limited to sixty percent (60%) of the total project goal. The supplier must perform a commercially useful function.

(c) In a case where the bidder has been unable to arrange to subcontract one hundred percent (100%) of the subcontract goal, but has been able to arrange to subcontract some of the goal to MBEs and/or WBEs, both a completed MBE/WBE subcontractor plan and a completed application for MBE/WBE program waiver shall be submitted with the other required bid documents, as prescribed. All MBE and WBE subcontractors must be validated by the department prior to the award of the contract. All forms are to be completed as described in subsection (a).

(d) In a case where the bidder has been unable to arrange to subcontract the goal percentage or in a case where no MBE or WBE participation is expected to occur, a completed application for MBE/WBE program waiver shall be submitted, along with the other required bid documents, as prescribed. The application shall be used to demonstrate

the bidder's efforts to employ MBEs and WBEs on the project. The application shall include the following information:

(1) Names of the MBE and WBE firms that the bidder has contacted or been contacted by.

(2) Persons working at the firms who were contacted.

(3) Phone numbers of the firms.

(4) Types of contacts or communications.

(5) An explanation of the results obtained, such as price not competitive, unable to contact, or no response.

The state reserves the right to verify and seek further clarification of any information submitted.

(e) Compliance with this rule is considered to be a demonstration of the bidder's responsiveness and responsibility. Therefore, all statements shall be complete, legible, true, and correct and shall not omit material facts. Failure to provide complete and accurate MBE and WBE subcontractor plans using minority and women's business enterprises validated as MBEs and WBEs by the department, or failure to provide applications for MBE/WBE program waivers, or both, may be the basis for rejection of the bid. *(Indiana Department of Administration; 25 IAC 5-6-4)*

Rule 7. Compliance

25 IAC 5-7-1 Policy

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) The results of a study, a Statistical Analysis of Utilization, conducted in accordance with IC 4-13-16.5-1, will determine the availability of socially disadvantaged small, minority, and women's business enterprises in the marketplace.

(b) Should the study find statistically significant disparities in state contractual expenditures in specifically defined areas, as compared to the ready, willing, and able minority and women's business enterprises in the state, the department shall institute goals for procurement and contracting to remedy the disparate findings of the study. *(Indiana Department of Administration; 25 IAC 5-7-1)*

25 IAC 5-7-2 Parties to whom this rule applies

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) This rule applies to all state agencies as defined in IC 4-13-16.5-1.

(b) This rule does not apply to either of the following:

(1) The state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises.

(2) Other state agencies whose purchases and contracts were not addressed in the most current Statistical Analysis of Utilization.

However, these agencies shall provide reports to the department of MBE and WBE procurement and contracting. This information shall be incorporated as data for the next study. The agency shall not be exempt from that point forward. *(Indiana Department of Administration; 25 IAC 5-7-2)*

25 IAC 5-7-3 Goal setting

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) The goal setting shall be subject to the following provisions:

(1) The goals shall be updated annually, during the month of March, to go into effect July 1 of the same year.

(2) The goals shall reflect current utilization and availability.

(3) The goals will apply to procurements and contracts as awarded, and to change orders, amendments, and other modifications to the contract which affect contract value.

(4) In accordance with IC 4-13-16.5-1, the findings of discrimination shall be updated, and the continuance of the goals shall be subject to the results of that review.

(b) The department may set overall MBE and WBE goals, which may be met through the use of prime contractors, subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE and WBE participation.

(c) The department may set specific MBE and WBE goals in the areas of construction, professional services, suppliers, and other business services based on the disparate findings of the Statistical Analysis of Utilization.

(d) Goals set by the department shall incorporate the availability of MBEs and WBEs to perform the work, and the availability of MBEs and WBEs in the location where the work is to be done.

(e) Subgoals may be set, wherein specific race and gender goals are set, incorporating the findings of the study, and in accordance with applicable laws.

(f) Goals may vary on individual contracts. However, the combined participation shall represent the MBE and WBE participation for the year. *(Indiana Department of Administration; 25 IAC 5-7-3)*

25 IAC 5-7-4 Compliance monitoring

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. (a) In the management of this program, the department shall exercise its rights to employ all available administrative actions and remedies to ensure that the goals

and intent of the program are successfully met. Therefore, the department shall serve as the final authority in the authentication, acceptance, and certification of MBE and WBE firms according to the criteria established in this article.

(b) The final authority in the review, acceptance, and approval of all MBE and WBE affidavits and subcontractor plans, and applications for MBE/WBE program waivers which are included in bid packages. In the performance of these duties, the department is hereby empowered to perform functions, including, but not limited to, the following:

(1) Review all MBE and WBE affidavits and subcontractor plans, and applications for MBE/WBE program waivers, after the bid opening and before the award of the contract, in order to verify the authenticity of the documents and the successful bidder's adherence to the rules and regulations set forth in the contract documents.

(2) Contact and interview the successful bidder or its listed subcontractors and material suppliers if further information is required to establish authenticity and to issue approval of the submitted documentation.

(3) Conduct audits, as necessary, of the accounting records of the successful bidder and the MBE and WBE participants to determine and establish their authenticity for the final acceptance and approval of the documentation.

(4) Issue an official NOTICE OF REJECTION when it has been determined that the successful bidder has not complied with the instructions set forth in the contract documents and this rule. The department may direct the successful bidder to submit revised documentation within five (5) working days or file for an official application for MBE/WBE program waiver. The department shall reserve the right to reject any and all bids when the successful bidder fails to respond to the department's request.

(5) Issue an official NOTICE OF CONDITIONAL APPROVAL when the following has been determined:

(A) That the successful bidder has demonstrated a good faith effort towards compliance to the program, but when one (1) or more of the MBE and/or WBE firms listed does not conform to the guidelines of this article.

(B) When the levels of participation do not reach the goal of the project.

After a review of the situation and circumstances, the successful bidder may be directed to submit a revised MBE or WBE subcontractor plan or may be granted an official MBE/WBE program waiver, thereby, allowing an exception to the goal for the project or any portion thereof.

(6) Issue an official approval of the MBE or WBE subcontractor plan when it has been determined that the successful bidder has achieved compliance with the project goal.

(7) Issue an official MBE/WBE program waiver from all or part of the project goal when it has been determined that the successful bidder has employed a good faith effort towards compliance to the program and when it has been determined that the realization of the project goal will not be feasible because of circumstances which are beyond the control of the bidder.

(8) Make recommendations to the appropriate agencies for further investigation if misrepresentation is suspected.

(c) The final authority in the review and acceptance of the successful bidder's MBE and WBE program participation reports that must be submitted under section 6 of this rule. Therefore, the department reserves the right to do the following:

(1) Receive copies, on a timely basis or upon demand, of all reports for the expressed purpose of their review, acceptance, or rejection. Timeliness of submittal, accuracy, and completeness will be subject to close scrutiny in the execution of this process.

(2) Conduct interviews with the appropriate personnel or designated representatives from the firms, as necessary, to determine and establish authenticity for acceptance of the reports.

(3) Conduct audits of the accounting records of the firms to determine accuracy in reporting and to establish authenticity for acceptance of the reports.

(4) Direct the successful bidder and the MBE and WBE participants, or all, to provide, as necessary, additional documentation to establish authenticity for acceptance of the reports.

(5) Make recommendations to the appropriate agencies for further investigation if misrepresentation is suspected.

(d) Because the attainment of the project goal has been established through contractual provisions with the prime contractor, the department shall consider the prime contractor to be the sole source of responsibility for goal attainment and project administration and shall, therefore, be held accountable for the actions of all of its subcontractors, including those subcontractors who have subcontracted work to MBE and WBE contractors or who have purchased materials from MBE and WBE suppliers.

(e) The department may employ its authority to make determinations of responsiveness and responsibility based on the actions of the subcontractors regarding adherence to Indiana laws and rules. *(Indiana Department of Administration; 25 IAC 5-7-4)*

25 IAC 5-7-5 Application for relief from project goal

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In cases where the contractor is unable to meet the project goal, the contractor may petition the depart-

ment for relief from that goal by filing an application for MBE/WBE program waiver. The application for MBE/WBE program waiver shall show all reasonable good faith efforts that were made by the contractor for the purpose of fulfilling the project goal. Such reasonable efforts shall include, but may not be limited to, the following:

(1) Documentation of direct contact or negotiations with MBEs and WBEs for specific contracting opportunities, the actions taken shall be reported in a manner that will include the following items:

(A) A detailed statement of the efforts made to negotiate with MBEs and WBEs, including the following:

(i) The names, addresses, and telephone numbers of MBEs and WBEs contacted.

(ii) A detailed statement of the reason why prospective agreements were not reached.

(B) A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs and WBEs in order to increase the likelihood of achieving the stated goal.

(2) Documentation of any advertising that the contractor performed in the search for prospective MBEs and WBEs for the contract.

(3) Documentation of any notifications that the contractor provided to minority business assistance agencies for the purpose of locating prospective MBEs and WBEs for the contract.

(4) Documentation of the contractor's efforts to research other possible areas of participation, including, but not limited to, any of the following:

(A) Suppliers.

(B) Shipping or transport firms.

(C) Engineering firms.

(D) Any other role that may contribute to the production and delivery of the product or service specified in the contract.

(5) Documentation regarding the contractor's affirmative action policies or programs as they pertain to the utilization of MBEs and WBEs. This documentation should also provide an explanation of the methods used to carry out the affirmative action policies.

(6) Documentation relevant to any other efforts the contractor has made to assist MBEs and WBEs in overcoming the traditional barriers of participation in the industry affected by the contract.

(b) When considering an application for MBE/WBE program waiver, the department will consider the following, including, but not limited to:

(1) The methods utilized by the contractor.

(2) The time the contractor has allowed for a meaningful response to its solicitations.

(3) Statements received from MBEs and WBEs who have been listed as having been contacted by the contractor.

(c) The contractor shall maintain adequate records of all relevant data with respect to the utilization and attempted utilization of MBEs and WBEs, and shall provide full access to these records to the department upon its request to inspect them. *(Indiana Department of Administration; 25 IAC 5-7-5)*

25 IAC 5-7-6 Grant of waiver from project goal

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

Sec. 6. Upon review and analysis of the documentation supplied to the department by the contractor, a determination will be made and the contractor will be promptly notified of the results. Such results may include the following:

(1) Notification that the contractor has been granted a waiver from the project goal and has been authorized to proceed without any MBE or WBE participation on the contract.

(2) Notification that the contractor has been granted a partial waiver from the project goal and has been authorized to proceed when MBE and WBE participation is greater than zero (0), but less than the project goal.

(3) Notification that further information will be required before a final determination may be made.

(4) Notification that the application for MBE/WBE program waiver has not been granted. In such a case, the following action may result:

(A) The contractor may be required to provide further information.

(B) The contractor's bid may be rejected.

(Indiana Department of Administration; 25 IAC 5-7-6)

25 IAC 5-7-7 Appeals process for bid rejection or denial of waiver

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

Sec. 7. (a) Upon notification that the application for MBE program waiver has been denied, the contractor may request a hearing with the MBE compliance review committee. The request for the hearing of an appeal shall be directed to:

MBE Compliance Review Committee
c/o Indiana Department of Administration
Indiana Government Center-South
402 West Washington Street
Indianapolis, Indiana 46204.

(b) In the appeals process, the committee shall be responsible for the following activities:

(1) Arrange a time and place to hear the contractor's appeal within five (5) working days of the date of the receipt of the contractor's request for the hearing.

(2) Provide the contractor with every opportunity to present the reason for the appeal.

(3) Review and discuss all of the information at hand, including the following:

(A) MBE availability.

(B) The contractor's original efforts towards MBE utilization.

(C) Statements from MBEs listed in the documentation supplied by the contractor.

(D) The arguments offered by the contractor at the hearing.

(4) Arrive at a final determination within five (5) working days after the conclusion of the appeal hearing.

(c) If the contractor is dissatisfied with the decision made by the MBE compliance review committee, the contractor may, within five (5) working days of receiving the committee's determination, request of the commissioner, in writing, a review and reconsideration of the decision and submit additional written material. The commissioner or designee will consider the request and issue a written decision within ten (10) working days after receipt of all material. *(Indiana Department of Administration; 25 IAC 5-7-7)*

25 IAC 5-7-8 Sanctions; contractors

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10; IC 35-43-5-9; IC 35-44-2-1

Sec. 8. (a) In the event of a violation of this rule, the department shall notify the contractor of the violations and will seek a course of action to correct them. The selected course of action may include the recommendation for the imposition of sanctions for material breach of contract if any of the following are determined:

(1) The contractor has not demonstrated a good faith effort to comply with this rule.

(2) The contractor has failed to cooperate in providing information regarding its good faith efforts to comply with this rule.

(3) The contractor provides false or misleading information concerning its minority business enterprise contracting activity or in relation to the contractor's good faith efforts to comply with this rule.

(4) The contractor fails to make prompt payment to a minority business for services, materials, or labor, whether with respect to the present contract or a previous contract between the contractor and the minority business, unless the contractor, in good faith, contests the payment or any part of it. The contractor fails to promptly pay the uncontested part to the minority business in the event the contractor, in good faith, contests part of a payment.

(5) The business enterprise provides false or misleading information concerning its status as a bona fide entity which is owned and actively controlled by racial minorities.

(6) The contractor subjects an MBE to unlawful discriminatory conduct.

(b) In the event that it is determined that a violation of this rule has occurred, the department may elect to immediately employ one (1) or more of the following sanctions:

(1) Withholding payments on the specific contract in which the deficiency is known to exist until such time that satisfactory corrective measures are made.

(2) Adjustment to payments due or the permanent withholding of retainages of the specific contract in which the deficiency is known to exist.

(3) Suspension or termination of the specific contract in which the deficiency is known to exist. In the event that this sanction is employed, the contractor will be held liable for any consequential damages arising from the suspension or termination of the contract, including damages caused as a result of the delay or from increased prices incurred in securing the performance of the balance of the work by other contractors.

(4) Recommendation to the certification board to revoke the contractor's certification status with the public works division of the department. This recommendation may result in the suspension or revocation of the contractor's ability to perform on future state contracts for a period no longer than thirty-six (36) months.

(5) Suspension, revocation, or denial of the MBE certification and eligibility to participate in the MBE program for a period of not more than thirty-six (36) months.

(c) In the event that sanctions are required, they may be employed immediately. Suspension or stay is in the sole discretion of the commissioner.

(d) In the event that the contractor has provided false or misleading information, the department may elect to provide the information to the appropriate investigating agencies for investigation and enforcement of any possible criminal violations or relevant statutes under IC 35-43-5-9 or IC 35-44-2-1.

(e) In the event that the contractor fails to pay the minority business in a timely manner or fails to satisfactorily resolve any outstanding claims, the department may elect to withhold the disputed amount from the payments due to the contractor and may elect to suspend or terminate the contract.

(f) In the event that the minority business enterprise has provided false or misleading information, the department may elect to provide the information to the appropriate investigating agencies for investigation and enforcement of any possible criminal violations of relevant statutes. *(Indiana Department of Administration; 25 IAC 5-7-8)*

25 IAC 5-7-9 Appeals process for violations ruling or sanctions imposed

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

Sec. 9. (a) Upon notification of the determination of rules violations or sanctions imposed, the contractor may request a hearing before the MBE compliance review committee. The request for the hearing of an appeal shall be directed to:

MBE Compliance Review Committee
c/o Indiana Department of Administration
Indiana Government Center-South
402 West Washington Street
Indianapolis, Indiana 46204.

(b) In the appeals process, the committee shall be responsible for the following activities:

(1) Arrange a time and place to hear the contractor's appeal within five (5) working days of the date of the receipt of the contractor's request for the hearing.

(2) Provide the contractor with every opportunity to present the basis for the appeal.

(3) Review and discuss all of the information at hand and the arguments offered by the contractor at the hearing.

(4) Arrive at a final determination within five (5) working days after the conclusion of the hearing.

(c) If the contractor is dissatisfied with the decision made by the MBE compliance review committee, the contractor may, within five (5) working days of receiving the committee's determination, request of the commissioner, in writing, a review and reconsideration of the decision and submit additional written material. The commissioner or designee will consider the request and issue a written decision within ten (10) working days after receipt of all material. *(Indiana Department of Administration; 25 IAC 5-7-9)*

Rule 8. Commission Members

25 IAC 5-8-1 Ethics of commission members
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. Commission members shall abide by all applicable state statutes, administrative rules, policies, and guidelines regarding ethical conduct. *(Indiana Department of Administration; 25 IAC 5-8-1)*

SECTION 2. THE FOLLOWING ARE REPEALED: 25 IAC 2-19; 25 IAC 2-20.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 28, 2002 at 1:30 p.m., at the Indiana State Museum Auditorium, 650 West Washington Street, Indianapolis, Indiana the Indiana Department of Administration will hold a public hearing on proposed new rules regarding minority and women's business enterprises consistent with IC 4-13-16.5. Copies are available at the Web site for the Department of Administration at www.state.in.us/idoa.minority. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W474 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Glenn R. Lawrence
Commissioner
Indiana Department of Administration

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

Proposed Rule
LSA Document #01-402

DIGEST

Amends 50 IAC 2.3-1-1 and 50 IAC 2.3-1-2 to update the adoption date of matters incorporated by reference as a result of minor changes and corrections to the 2002 Real Property Assessment Manual and the Real Property Assessment Guidelines for 2002–Version A, published by the state board of tax commissioners and originally dated May 10, 2001, and to eliminate reference to the shelter allowance as required by House Enrolled Act 1001(ss). Effective 30 days after filing with the secretary of state.

50 IAC 2.3-1-1
50 IAC 2.3-1-2

SECTION 1. 50 IAC 2.3-1-1, AS AMENDED AT 26 IR 6, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 2.3-1-1 Applicability, provisions, and procedures
Authority: IC 4-22-2-21; IC 6-1.1-4-26; IC 6-1.1-31; IC 6-1.1-35-1
Affected: IC 5-3-1; IC 6-1.1-4; IC 6-1.1-15; IC 6-1.1-31-5; IC 6-1.1-31-6

Sec. 1. (a) This article applies to the assessment of all real property under IC 6-1.1-4.

(b) All real property assessed after February 28, 2002, must be assessed in accordance with the 2002 Real Property Assessment Manual, incorporated by reference under section 2 of this rule.

(c) In addition to the requirements established in the 2002 Real Property Assessment Manual and to fully address the requirements of IC 6-1.1-31-6, the county assessor must select a set of more specific guidelines to be applied by assessing officials in connection with the assessment of real property in their county. These guidelines must:

(1) contain provisions for the determination of true tax value following the instructions in the section of the 2002 Real Property Assessment Manual entitled "Approval of Mass Appraisal Methods"; and

(2) be approved by the state board of tax commissioners.

The state board of tax commissioners has approved the provisions contained in the "Real Property Assessment Guidelines for 2002–Version 'A'" dated May 10, 2001, **as amended to and including October 1, 2002,** incorporated by reference under section 2 of this rule. Other real property assessment guidelines proposed by a county must be submitted to, and approved by, the state board of tax commissioners before they may be used for the assessment of real property in that county.

(d) The purpose of this rule is to accurately determine "True Tax Value" as defined in the 2002 Real Property Assessment Manual, not to mandate that any specific assessment method be followed. The intent of the state board of tax commissioners is that any individual assessment is to be deemed accurate if it is a reasonable measure of "True Tax Value" as defined in the 2002 Real Property Assessment Manual. No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of "True Tax Value", and failure to comply with the Real Property Assessment Guidelines for 2002–Version 'A' or other guidelines approved under subsection (c) does not in itself show that the assessment is not a reasonable measure of "True Tax Value".

(e) After July 1, 2001, and before November 1, 2001, the county assessor shall make the selection required under subsection (c). The method selected under subsection (c) must be used by all the assessing officials within the county, will serve as the appropriate method for calculating an assessment that is appealed under IC 6-1.1-15, and govern throughout the effective period of the 2002 reassessment. No method, other than the method selected by the county assessor under subsection (c), may be used for the assessment of real property under IC 6-1.1-4 within the county. Before November 1, 2001, the county assessor shall publish the selected method in accordance with IC 5-3-1 and notify the state board of tax commissioners, in writing, of the selection.

(f) If the county assessor elects, pursuant to IC 6-1.1-31-5, to consider additional factors not provided for in this rule or the manual incorporated herein by reference, the county assessor shall submit a written request for approval of such factors by the state board of tax commissioners, at least sixty (60) days before the assessments are made, and no later than January 1, 2002. *(Department of Local Government Finance; 50 IAC 2.3-1-1; filed May 23, 2001, 4:01 p.m.: 24 IR 3015; filed Aug 26, 2002, 10:36 a.m.: 26 IR 6)*

SECTION 2. 50 IAC 2.3-1-2 IS AMENDED TO READ AS FOLLOWS:

50 IAC 2.3-1-2 Incorporation by reference

Authority: IC 4-22-2-21; IC 6-1.1-4-26; IC 6-1.1-31; IC 6-1.1-35-1
Affected: IC 6-1.1

Sec. 2. (a) As used in this article, "2002 Real Property Assessment Manual" refers to the 2002 Real Property Assessment Manual, published by the state board of tax commissioners and dated May 10, 2001, **as amended to and including October 1, 2002. The amendments adopted as of October 1, 2002, eliminate references to the shelter allowance as required by House Enrolled Act 1001(ss).**

(b) As used in this article, "Real Property Assessment Guidelines for 2002–Version 'A'" refers to the Real Property Assessment Guidelines for 2002–Version 'A', published by the state board of tax commissioners and dated May 10, 2001, **as amended to and including October 1, 2002. The amendments incorporate minor changes and corrections to the Real Property Assessment Guidelines for 2002–Version 'A', published by the state board of tax commissioners and originally dated May 10, 2001, and eliminate references to the shelter allowance as required by House Enrolled Act 1001(ss).** The Real Property Assessment Guidelines for 2002–Version 'A' are Exhibit 1 to the 2002 Real Property Assessment Manual.

(c) The 2002 Real Property Assessment Manual and Real Property Assessment Guidelines for 2002–Version 'A' is incorporated by reference under the authority of IC 4-22-2-21(a)(3). *(Department of Local Government Finance; 50 IAC 2.3-1-2; filed May 23, 2001, 4:01 p.m.: 24 IR 3016)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 29, 2002 at 2:00 p.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 1045,(IEERB Conference Room) Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on proposed amendments to update the adoption date of matters incorporated by reference as a result of minor changes and corrections to the 2002 Real Property Assessment Manual and the Real Property Assessment Guidelines for 2002–Version A, published by the state board of tax commissioners and originally dated May 10, 2001, and to eliminate reference to the shelter allowance as required by House Enrolled Act 1001(ss). Parties interested in participating in the public hearing are encouraged to attend and submit written statements expressing their specific or general concerns, any suggested additions or revisions, and any documentation that may serve to support, clarify, or supplement their concerns, suggestions, or proposed revisions. The Department of Local Government Finance also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Beth H. Henkel, General Counsel, Department of Local Government Finance at (317) 233-1495.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa Acobert
Commissioner
Department of Local Government Finance

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

Proposed Rule
LSA Document #02-240

DIGEST

Amends 50 IAC 2.3-1-1 concerning the 2002 Real Property Assessment Manual to provide county assessors more flexibility in selection of methodology in real property assessment. Effective 30 days after filing with the secretary of state.

50 IAC 2.3-1-1

SECTION 1. 50 IAC 2.3-1-1, PROPOSED TO BE AMENDED AT 26 IR 86, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 2.3-1-1 Applicability, provisions, and procedures
Authority: IC 4-22-2-21; IC 6-1.1-4-26; IC 6-1.1-31; IC 6-1.1-35-1
Affected: IC 5-3-1; IC 6-1.1-4; IC 6-1.1-15; IC 6-1.1-31-5; IC 6-1.1-31-6

Sec. 1. (a) This article applies to the assessment of all real property under IC 6-1.1-4.

(b) All real property assessed after February 28, 2002, must be assessed in accordance with the 2002 Real Property Assessment Manual, incorporated by reference under section 2 of this rule.

(c) In addition to the requirements established in the 2002 Real Property Assessment Manual and to fully address the requirements of IC 6-1.1-31-6, the county assessor must select a set of more specific guidelines to be applied by assessing officials in connection with the assessment of real property in their county. These guidelines must:

(1) contain provisions for the determination of true tax value following the instructions in the section of the 2002 Real Property Assessment Manual entitled "Approval of Mass Appraisal Methods"; and

(2) be approved by the state board of tax commissioners.

The state board of tax commissioners has approved the provisions contained in the "Real Property Assessment Guidelines for 2002–Version 'A'" dated May 10, 2001, as amended to and including October 1, 2002, incorporated by reference under section 2 of this rule. Other real property assessment guidelines proposed by a county must be submitted to, and approved by, the state board of tax commissioners before they may be used for the assessment of real property in that county.

(d) The purpose of this rule is to accurately determine "True Tax Value" as defined in the 2002 Real Property Assessment Manual, not to mandate that any specific assessment method be followed. The intent of the state board of tax commissioners is that any individual assessment is to be deemed accurate if it is a reasonable measure of "True Tax Value" as defined in the 2002 Real Property Assessment Manual. No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of "True Tax Value", and failure to comply with the Real Property Assessment Guidelines for 2002–Version 'A' or other guidelines approved under subsection (c) does not in itself show that the assessment is not a reasonable measure of "True Tax Value".

(e) After July 1, 2001, and before November 1, 2001, the county assessor shall make the selection required under subsection (c). The method selected under subsection (c) must be used by all the assessing officials within the county, will serve as the appropriate method for calculating an assessment that is appealed under IC 6-1.1-15, and govern throughout the effective period of the 2002 reassessment. No method, other than the method selected by the county assessor under subsection (c), may be used for the assessment of real property under IC 6-1.1-4 within the county. Before November 1, 2001, the county assessor shall publish the selected method in accordance with IC 5-3-1 and notify the state board of tax commissioners, in writing, of the selection.

(f) ~~If~~ The county assessor ~~elects, pursuant to IC 6-1.1-31-5, to~~ **may amend its selection of method of assessment or** consider additional factors not provided for in this rule or the manual incorporated herein by reference, **with the approval of the department of local government finance.** The county assessor shall submit a written request for approval of ~~such~~ **the selection of method or other** factors ~~by~~ **to** the ~~state board of tax commissioners,~~ **department of local government finance,** at least sixty (60) days before the assessments are made. ~~and no later than January 1, 2002.~~ *(Department of Local Government Finance; 50 IAC 2.3-1-1; filed May 23, 2001, 4:01 p.m.: 24 IR 3015)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 29, 2002 at 2:00 p.m., at the Indiana Government Center-North,

100 North Senate Avenue, Room 1045, (IEERB Conference Room) Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on proposed amendments to provide county assessors more flexibility in selection of methodology in real property assessment. Parties interested in participating in the public hearing are encouraged to attend and submit written statements expressing their specific or general concerns, any suggested additions or revisions, and any documentation which may serve to support, clarify or supplement their concerns, suggestions, or proposed revisions. The Department of Local Government Finance also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Beth H. Henkel, General Counsel, Department of Local Government Finance, at (317) 233-1495. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa Acobert
Commissioner
Department of Local Government Finance

TITLE 52 INDIANA BOARD OF TAX REVIEW

Proposed Rule
LSA Document #02-206

DIGEST

Adds 52 IAC to establish standards to govern the practice of representatives before the Indiana board of tax review. Effective 30 days after filing with the secretary of state.

52 IAC 1

SECTION 1. 52 IAC 1 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1. TAX REPRESENTATIVES

Rule 1. Definitions

52 IAC 1-1-1 Applicability
Authority: IC 6-1.5-6-1
Affected: IC 6-1.5

Sec. 1. The definitions in this rule apply throughout this article. *(Indiana Board of Tax Review; 52 IAC 1-1-1)*

52 IAC 1-1-2 "Board" defined
Authority: IC 6-1.5-6-1
Affected: IC 6-1.5-1-3

Sec. 2. "Board" refers to the Indiana board of tax review established under IC 6-1.5-1-3. References to the board in this rule shall, where necessary, include its predecessor agency, the state board of tax commissioners. *(Indiana Board of Tax Review; 52 IAC 1-1-2)*

52 IAC 1-1-3 "Department" defined
Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-30-1.1

Sec. 3. "Department" means the department of local government finance established under IC 6-1.1-30-1.1. *(Indiana Board of Tax Review; 52 IAC 1-1-3)*

52 IAC 1-1-4 "Practice before the board " defined
Authority: IC 6-1.5-6-1
Affected: IC 6-1.5; IC 6-1.1-15

Sec. 4. "Practice before the board" means participation in any matters connected with a presentation to the board, or any of its members or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such presentations include, but are not limited to, the following:

(1) Preparing and filing necessary documents, except personal property returns.

(2) Corresponding and communicating with the board.

(3) Representing a client at hearings, on-site inspections, and meetings.

The term does not include the activities of any local unit of government participating before the board. *(Indiana Board of Tax Review; 52 IAC 1-1-4)*

52 IAC 1-1-5 "Property tax assessment board of appeals" defined
Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-28-1

Sec. 5. "Property tax assessment board of appeals" means the county property tax assessment board of appeals established under IC 6-1.1-28-1. *(Indiana Board of Tax Review; 52 IAC 1-1-5)*

52 IAC 1-1-6 "Tax representative" defined
Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-26-2

Sec. 6. "Tax representative" means a person who represents another person at a proceeding before the board, under IC 6-1.1-15. The term does not include:

(1) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(2) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(3) representatives of local units of government appearing on behalf of the unit or as the authorized representative of another unit;

(4) a certified public accountant, when the certified public

accountant is representing a client in a matter that relates only to personal property taxation; or

(5) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the board to appear pro hac vice.

(Indiana Board of Tax Review; 52 IAC 1-1-6)

Rule 2. Tax Representatives

52 IAC 1-2-1 Practice requirements

Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-15; IC 6-1.1-26

Sec. 1. (a) In order to practice before the board, a tax representative must:

(1) be properly certified by the department; and

(2) have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the board on file with the board before a hearing will be scheduled.

(b) Property tax representatives may not be certified to practice before the board for:

(1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;

(2) claims that assessments or taxes are "illegal as a matter of law", whether brought on:

(A) a Form 133 pursuant to IC 6-1.1-15-12(a)(6);

(B) a Form 17-T pursuant to IC 6-1.1-26-1(4);

(C) a Form 130 pursuant to IC 6-1.1-15-1; or

(D) any other form;

(3) claims regarding the constitutionality of an assessment; or

(4) any other representation that involves the practice of law.

(c) Notwithstanding subsection (a)(1), the board may grant leave to practice before the board to a tax representative who is properly licensed or certified in another state. *(Indiana Board of Tax Review; 52 IAC 1-2-1)*

52 IAC 1-2-2 Communication with client or prospective client

Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-2-4; IC 6-1.1-15

Sec. 2. (a) No certified property tax representative shall, with respect to any matter relating to practice before the board, in any way use or participate in the use of any form of public communication containing a:

(1) false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or

(2) misleading or deceptive statement or claim.

(b) A property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or in some other form that may be reasonably interpreted by the taxpayer (the property owner or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal, the statement, "I understand that by authorizing _____ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the board. I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf. I understand that legal issues relating to my assessment that may now exist or may be discovered at some time in the future will not and cannot be addressed by the certified property tax representative, and that if not raised before the board may not be raised at a later stage of my assessment appeal.".

(c) The disclosure shall be signed by the taxpayer. The certified property tax representative shall provide the taxpayer with a copy of the disclosure and shall be required to provide a copy of the disclosure to the board, upon request. Failure to provide a signed copy of disclosure upon request may be grounds for:

(1) denying the tax representative the right to represent the taxpayer with respect to the property subject to the pending administrative appeal; or

(2) a recommendation of disciplinary action to the department under 50 IAC 15-5-8.

(d) A disclosure properly filed or presented to the department by the tax representative in connection with the representation of the taxpayer in an appeal from a proceeding before the department or the property tax assessment board of appeals may be presented in lieu of the disclosure described in subsection (b). *(Indiana Board of Tax Review; 52 IAC 1-2-2)*

52 IAC 1-2-3 Prohibitions; obligations

Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-2-4; IC 6-1.1-15

Sec. 3. A certified tax representative shall:

(1) not knowingly misrepresent any information or act in a fraudulent manner;

(2) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;

(3) not knowingly submit false or erroneous information in a property assessment appeal;

(4) use the appraisal standards and methods required by rules adopted by the department or the board when the representative submits appraisal information in a property assessment appeal; and

(5) notify the property owner (or person liable for the

taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the board, including, but not limited to, the following:

(A) The tax representative's filing of all necessary documents, correspondence, and communications with the board.

(B) The dates and substance of all hearings, on-site inspections, and meetings.

(Indiana Board of Tax Review; 52 IAC 1-2-3)

52 IAC 1-2-4 Contingent fees

Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-15

Sec. 4. (a) In the event a tax representative charges a contingent fee for any matter relating to practice before the board, the tax representative may not testify at a hearing without first disclosing the existence of the contingent fee arrangement.

(b) As used in this section, "contingent fee" includes a fee, whether accruing to the tax representative or to the entity with which the tax representative is affiliated, that is based on a percentage of the:

(1) refund obtained;
(2) taxes saved; or
(3) reduction in assessed value.

(c) Failure to disclose the existence of a contingent fee arrangement may result in the presumption that a contingent fee arrangement exists between the taxpayer and the tax representative *(Indiana Board of Tax Review; 52 IAC 1-2-4)*

52 IAC 1-2-5 Certification; revocation

Authority: IC 6-1.5-6-1
Affected: IC 6-1.1-15; IC 6-1.1-35.5-8

Sec. 5. (a) Upon recommendation of the board to the department, the following may be grounds for the department to deny, suspend, or revoke the certification of a tax representative:

(1) Violation of any rule of practice before the established under this article.

(2) Gross incompetence in the tax representative's practice before the board.

(3) Dishonesty or fraud committed while practicing before the board.

(4) Violation of the standards of ethics or rules of solicitation adopted by the department or the board.

(b) If, after a hearing under the rules of the department, it is found that the tax representative has committed one of the acts described in subsection (a), the certification of the tax representative may be subject denial, suspension, or revocation on the same terms and conditions as if the violation were one committed in connection with practice before the property tax assessment board of appeals or the department. *(Indiana Board of Tax Review; 52 IAC 1-2-5)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 30, 2002 at 2:00 p.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 1045, Indianapolis, Indiana the Indiana Board of Tax Review will hold a public hearing on proposed new rules to govern the practice of representatives before the Indiana board of tax review. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Annette Biesecker
Chairman
Indiana Board of Tax Review

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #02-55

DIGEST

Amends 326 IAC 20-25 concerning emissions from reinforced plastics composites fabricating emission units. Adds 326 IAC 20-48 concerning national emission standards for hazardous air pollutants from boat manufacturing. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2002, Indiana Register (25 IR 2045).

Second Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3488).

Notice of First Hearing: July 1, 2002, Indiana Register (25 IR 3493).

Date of First Hearing: September 4, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on July 1, 2002, at 25 IR 3488, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from July 1, 2002, through July 31, 2002, on IDEM's draft rule language. IDEM received comments from the following party:

National Marine Manufacturers Association, NMMA

Following is a summary of the comments received and IDEM's responses thereto:

Comment: It is NMMA's understanding that IDEM is amending 326 IAC 20-48 to incorporate by reference 40 CFR Subpart VVVV (66 FR 44232, August 22, 2001, and 65 FR 50504, October 3, 2001). By incorporating 40 CFR Subpart VVVV, IDEM exempts boat builders from 326 IAC 20-25, except for pigmented gel coat operations, clear gel coat operations, and tooling gel coat operations. In the case of these three (3) processes, boat builders have the option to be able to use gel coat with a higher average hazardous air pollutant (HAP) content, if the material is applied by nonatomized methods. These proposed average HAP limits are listed in 326 IAC 20-48-2. Boat builders can also choose to continue to use atomized application methods and comply with the gel coat standards in the boat manufacturing national emission standards for hazardous air pollutants (NESHAP). Other provisions include adoption of the compliance dates in the federal rule and references or methods to estimate HAP emissions from boat manufacturing. Provided that NMMA is correct in its understanding of the intent of this new rule, our members can support the IDEM plan. (NMMA)

Response: IDEM has developed draft rule language for a new rule, 326 IAC 20-48, Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, and NMMA's understanding of the intent of this new rule is correct.

Comment: NMMA is concerned that its members did not receive direct notification when changes were first proposed in the Indiana Register in March 2002, and requests that IDEM directly notify them of future rulemakings that affect their businesses. (NMMA)

Response: IDEM appreciates the commenter's interest in this rule. The first comment period is an opportunity for stakeholders to comment on the rulemaking prior to draft language being developed. While IDEM often provides direct notification to interested parties of draft rule language published in the second notice, we typically do not provide extra notice of the first comment period beyond publication in the Indiana Register. The Indiana Register is easily accessible to stakeholders on the state of Indiana Web site. In this case, we did provide direct notice of the second comment period and draft rule language to interested parties in July 2002, including NMMA.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 4, 2002, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of a new rule, 326 IAC 20-48, and amendments to 326 IAC 20-25.

No comments were made at the first hearing.

326 IAC 20-25-1 **326 IAC 20-25-5**
326 IAC 20-25-3 **326 IAC 20-25-7**
326 IAC 20-25-4 **326 IAC 20-48**

SECTION 1. 326 IAC 20-25-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-1 Applicability

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 1. (a) This rule applies to owners or operators of sources that emit or have the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs, and that meet all of the following criteria:

(1) Manufacture reinforced plastics composites parts, products, or watercraft.

(2) Have an emission unit where resins and gel coats that contain styrene are applied and cured using the open molding process.

(3) Have actual emissions of styrene equal to or greater than three (3) tons per year.

(b) Except as provided in section ~~3(c)~~ **3(d)** of this rule, in the event there is a conflict between this rule and any existing federal or state statute or federal or state rule, the more stringent requirement shall apply.

(c) If a source is subject to 326 IAC 20-48 concerning emission standards for hazardous air pollutants for boat manufacturing, the source is exempt from this rule after the following compliance dates for 326 IAC 20-48:

(1) August 23, 2004, for an existing source that is a major source on or before August 22, 2001.

(2) One (1) year after becoming a major source for an existing or new nonmajor source.

(3) Upon startup for a new major source.

(Air Pollution Control Board; 326 IAC 20-25-1; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2406)

SECTION 2. 326 IAC 20-25-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-3 Emission standards

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 3. (a) Except as provided in subsections ~~(c), (f),~~ **(d), (e),** and ~~(h),~~ **(g),** owners and operators of sources subject to this rule shall comply with the provisions of this section on or before January 1, 2002. The total **hazardous air pollutants** (HAP) monomer content of the following materials shall be limited depending on the application method and products produced as specified in the following tables:

TABLE I Fiber Reinforced Plastics Composites Products Except Watercraft	HAP Monomer Content, Weight Percent
Resin, Manual, or Mechanical Application	
Production-Specialty Products	48*
Production-Noncorrosion Resistant Unfilled	35*
Production-Noncorrosion Resistant Filled (≥35% by weight)	38
Production, Noncorrosion Resistant, Applied to Thermoformed Thermoplastic Sheet	42
Production, Class I, Flame and Smoke	60*
Shrinkage Controlled	52
Tooling	43

Gel Coat Application	
Production-Pigmented	37
Clear Production	44
Tooling	45
Production-Pigmented, subject to ANSI[a] standards	45
Production-Clear, subject to ANSI[a] standards	50

[a] American National Standards Institute.

TABLE II Watercraft Products	HAP Monomer Content, Weight Percent
Resin, Manual or Mechanical Application	
Production-Specialty Products	48*
Production-Noncorrosion Resistant Unfilled	35*
Production-Noncorrosion Resistant Filled (≥35% by weight)	38
Shrinkage Controlled	52
Tooling	43*
Gel Coat Application	
Production-Pigmented and Base Coat Gel Coat	34
Clear Production and Tooling	48

*Categories that must use mechanical nonatomized application technology or manual application as stated in subsection (b).

(b) Except as provided in subsection ~~(f),~~ **(e),** the following categories of materials in subsection (a) shall be applied using mechanical nonatomized application technology or manual application:

(1) Production noncorrosion resistant, unfilled resins from all sources.

(2) Production, specialty product resins from all sources.

(3) Tooling resins used in the manufacture of watercraft.

(4) Production resin used for Class I flame and smoke products.

(c) Unless specified in subsection (b), gel coat application and mechanical application of resins shall be by any of the following spray technologies:

(1) Nonatomized application technology.

(2) Air-assisted airless.

(3) Airless.

(4) High volume, low pressure.

(5) Equivalent emission reduction technologies to subdivisions (2) through (4).

~~(d) Cleaning operations for resin and gel coat application equipment are as follows:~~

~~(1) For routine flushing of resin and gel coat application equipment such as spray guns, flowcoaters, brushes, rollers, and squeegees, a cleaning solvent shall contain no HAPs. This emission standard does not apply to solvents used for removing cured resin or gel coat from application equipment.~~

~~(2) A source must store HAP containing solvents used for removing cured resin or gel coat in containers with covers. The covers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.~~

~~(3) Recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subsection.~~

~~(e)~~ **(d)** A source that was issued a permit pursuant to 326 IAC 2 on or after June 28, 1998, but prior to the effective date of this rule, and that obtained a revised best available control technology (BACT) determination in the permit for emission units, is not subject to this section until the permit is renewed, or the emission unit undergoes a modification that increases the potential to emit styrene.

~~(f)~~ **(e)** A new or reconstructed emission unit subject to 326 IAC 2-4.1-1 is not subject to the requirements of this section.

~~(g)~~ **(f)** The owner or operator of a source subject to this rule may comply with this section using monthly emission averaging within each resin or gel coat application category listed in subsection (a) without prior approval by the commissioner.

~~(h)~~ **(g)** Upon written application by the source, the commissioner may approve the following:

(1) Enforceable alternative emission reduction techniques that are at least equally protective of the environment as the emission standards in subsections (a) through ~~(d).~~ **(c).**

(2) Use of monthly emissions averaging for any or all material or application categories listed in subsection (a) if the following conditions are met:

(A) The source shows that emissions did not exceed the emissions that would have occurred if each emission unit had met the requirements of subsections (a) through (c).

(B) The source uses any one (1) or a combination of the following emission reduction techniques:

(i) Resins or gel coats with HAP monomer contents lower than specified in subsection (a).

(ii) Vapor suppressed resins.

(iii) Vacuum bagging or other similar technique. This item does not include resin transfer molding or compression molding.

(iv) Air pollution control equipment where the emissions are estimated based on parametric measurements or stack monitoring.

(v) Controlled spray used in combination with automated actuators or robots.

(vi) Controlled spray that includes the following:
(AA) Mold flanges.
(BB) Spray technique.
(CC) Spray gun pressure.
(DD) Means of verifying continuous use of the controlled spray technique, such as mass balance of materials and products (surface area and thickness of product), as approved by the commissioner prior to implementation.
(vii) Emission reduction techniques approved under subdivision (1).

Sources using averaging shall not use spray equipment that produces higher emissions than the equipment specified in ~~subsections~~ **subsection** (c)(2) through (c)(5).

~~(i)~~ **(h)** To determine emission estimates, the following references or methods shall be used:

(1) "Unified Emission Factors for Open Molding of Composites", ~~April 1999,~~ **July 2001*,** except use of controlled spray emission factors must be approved by the commissioner.

(2) "Compilation of **Air Pollution** Emission Factors ~~Volume 1, Fifth Edition, and supplements, January 1995*,~~ **AP-42***" **as defined in 326 IAC 1-2-20.5,** except ~~for~~ **emissions from** hand layup and spray layup operations **must be calculated using** emission factors **referenced in subdivision (1) or site-specific values using information in subdivision (3).**

(3) Site-specific values or other means of quantification provided the site-specific values and the emission factors are acceptable to the commissioner and the U.S. EPA.

***These documents are incorporated by reference.** Copies ~~of the "Compilation of Emission Factors" and "Unified Emission Factors for Open Molding of Composites" referenced in this article~~ **may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington D.C. 20204 or** are available for **review and** copying ~~from~~ **at** the **Indiana Department of Environmental Management,** Office of Air ~~Management, Department of Environmental Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana. *(Air Pollution Control Board; 326 IAC 20-25-3; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2408)*

SECTION 3. 326 IAC 20-25-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-4 Work practice standards
Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 4. On or before March 1, 2001, each owner or operator of a source or emission unit subject to this rule shall operate in accordance with the following work practice standards:

(1) Nonatomizing spray equipment shall not be operated at pressures that atomize the material during the application process.

(2) Except for mixing containers as described in ~~subsection~~ **subdivision** (7), **hazardous air pollutant** (HAP) containing materials shall be kept in a closed container when not in use.

(3) Solvents sprayed during cleanup and resin changes shall be directed into solvent collection containers.

(4) Solvent collection containers shall be kept closed when not in use.

(5) Clean-up rags with solvent shall be stored in closed containers.

(6) Closed containers shall be used for the storage of the following:
(A) All production and tooling resins that contain HAPs.
(B) All production and tooling gel coats that contain HAPs.
(C) Waste resins and gel coats that contain HAPs.
(D) Cleaning materials, including waste cleaning materials.
(E) Other materials that contain HAPs.

The covers of the closed containers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.

(7) All resin and gel coat mixing containers with a capacity equal to or greater than fifty-five (55) gallons must have a cover with no visible gaps in place at all times except when material is being added to or removed from a container, or when mixing or pumping equipment is being placed in or removed from a container.

(8) For routine flushing of resin and gel coat application equipment, such as spray guns, flowcoaters, brushes, rollers, and squeegees, owners or operators must use a cleaning solvent that contains no HAPs. However, recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subdivision. For removing cured resin or gel coat from application equipment, no organic HAP limit applies.

(Air Pollution Control Board; 326 IAC 20-25-4; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2410)

SECTION 4. 326 IAC 20-25-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-5 Testing requirements
Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 5. (a) An initial performance test is required when using air pollution control equipment to demonstrate compliance with the standards in section 3 of this rule. Testing shall be performed in accordance with 326 IAC 3-6, concerning source sampling procedures, and 40 CFR 63.7*, ~~(July 1, 1998)*,~~ performance testing requirements.

(b) When using air pollution control equipment to demonstrate compliance with the standards in section 3 of this rule, the following test methods shall be used:

(1) 40 CFR 60, Method 25/25A, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure total hydrocarbon emissions.
(2) 40 CFR 60, Method 18, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure styrene and methyl methacrylate emissions.
(3) 40 CFR 51, Method 204, Appendix M*, ~~(July 1, 1998)*,~~ shall be used to determine capture efficiency. As an alternative to the procedures specified in 40 CFR 51, Method 204, Appendix M*, ~~(July 1, 1998)*,~~ an owner or operator required to conduct a capture efficiency test may use any capture efficiency protocol and test methods that satisfy the criteria of either the data quality objective or the lower confidence limit approach as described in the EPA Guidelines for Determining Capture Efficiency, which is included in Appendix A to Subpart KK to 40 CFR Part 63*. ~~(July 1, 1998)*.~~ The owner or operator may exclude work stations that have never been subject to such capture efficiency determinations.

(c) Compliance with the HAP monomer content and usage limitations shall be determined using one (1) of the following:
(1) The manufacturer's certified product data sheet.
(2) The manufacturer's material safety data sheet.
(3) Sampling and analysis, using any of the following test methods, as applicable:
(A) 40 CFR 60, Method 24, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure the total volatile HAP content of resins and gel coats. Method 24 may be modified for measuring the volatile HAP content of resins or gel coats to require that the procedure be performed on uncatalyzed resin or gel coat samples.
(B) 40 CFR 63, Method 311, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure HAP content in resins and gel coats by direct injection into a gas chromatograph.
(C) Upon written application by the source, the commissioner may approve an alternative test method.
When a MSDS, a certified product data sheet, or other document specifies a range of values, the values resulting in the greatest calculated emissions shall be used for determining compliance with this rule.

***These documents are incorporated by reference.** Copies ~~of the Code of Federal Regulation (CFR) referenced in this section~~ may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D. C. 20204 or are available for **review and** copying ~~from~~ **at** the **Indiana Department of Environmental Management,** Office of Air ~~Management, Department of Environmental Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 20-25-5; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2410)*

SECTION 5. 326 IAC 20-25-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-7 Reporting requirements
Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 7. (a) On or before June 1, 2001, the owner or operator of a source subject to this rule shall submit an initial notification report to the commissioner. The notification report shall include all of the following:
(1) Name and address of the owner or operator.
(2) Address of the physical location of the source.
(3) Statement verifying that the source is subject to the rule signed by a responsible official as set forth in 326 IAC 2-7-1(34).

(b) On or before March 1, 2002, the owner or operator of a source subject to this rule shall submit an initial statement of compliance to the commissioner. The initial statement of compliance shall include all of the following:
(1) Name and address of the owner or operator.
(2) Address of the physical location.
(3) Statement signed by a responsible official, as set forth in 326 IAC 2-7-1(34), certifying that the source achieved compliance on or before January 1, 2002, the method used to achieve compliance, and that the source is in compliance with all the requirements of this rule.

(c) Sources using monthly emissions averaging pursuant to section ~~3(h)(2)~~ **3(g)(2)** of this rule, shall submit a quarterly summary report and supporting calculations. *(Air Pollution Control Board; 326 IAC 20-25-7; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2411)*

SECTION 6. 326 IAC 20-48 IS ADDED TO READ AS FOLLOWS:

Rule 48. Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

326 IAC 20-48-1 Applicability; incorporation by reference of federal standards
Authority: IC 13-15-2-1; IC 13-17-3-4
Affected: IC 13-12-3-1

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.5683* (66 FR 44232, August 22, 2001, and 66 FR 50504, October 3, 2001).

(b) The air pollution control board incorporates by reference 40 CFR, Subpart VVVV*, (66 FR 44232, August 22, 2001, and 66 FR 50504, October 3, 2001), National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, except for the following gel coat applications in Table 2 to Subpart VVVV, 40 CFR 63*; Alternative Organic Hazardous Content Requirements for Open Molding Resin and Gel Coat Operations:
(1) 3. Pigmented gel coat operations.
(2) 4. Clear gel coat operations.
(3) 7. Tooling gel coat operations.

(c) Sources subject to this rule are exempt from 326 IAC 20-25 after the following compliance dates as provided in Table 1 to Subpart VVVV, 40 CFR 63*; Compliance Dates for New and Existing Boat Manufacturing Facilities:

(1) August 23, 2004, for an existing source that is a major source on or before August 22, 2001.

(2) One (1) year after becoming a major source for an existing or new nonmajor source.

(3) Upon startup, whichever is later, for a new major source.

(d) A source shall use the following references or methods to estimate emissions:

(1) "Unified Emission Factors for Open Molding of Composites", July 2001*, except use of controlled spray emission factors must be approved by the commissioner and U.S. EPA.

(2) "Compilation of Air Pollution Emission Factors AP-42"*, as defined in 326 IAC 1-2-20.5, except emissions from hand layup and spray layup operations must be calculated using emission factors referenced in subdivision (1) or site-specific values using information in subdivision (3).

(3) Site-specific values or other means of quantification provided the site-specific values and the emission factors are acceptable to the commissioner and the U.S. EPA.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 20-48-1)*

326 IAC 20-48-2 Alternative organic hazardous air pollutant content requirements for open molding gel coat operations

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 2. In addition to alternative organic HAP content requirements for open molding resin operations contained in Table 2 to Subpart VVVV, 40 CFR 63, the alternative HAP content requirements for gel coat operations are as follows:

Gel Coat Application		
For this operation	And this application method	You must not exceed this weighted-average percent organic HAP content (weight percent) requirement
Pigmented gel coat operations	Atomized (spray)	33 percent
Clear gel coat operations	Atomized (spray)	48 percent
Tooling gel coat operations	Atomized (spray)	40 percent
Pigmented gel coat operations	Nonatomized (nonspray)	40 percent
Clear gel coat operations	Nonatomized (nonspray)	55 percent
Tooling gel coat operations	Nonatomized (nonspray)	54 percent

(Air Pollution Control Board; 326 IAC 20-48-2)

326 IAC 20-48-3 Work practice standards

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 3. In addition to 40 CFR 63.5731* and 40 CFR 63.5734(b)*, the following work practice standards are required:

(1) Nonatomizing spray equipment shall not be operated at pressures that atomize the material during the application process.

(2) Solvents sprayed during cleanup and resin changes shall be directed into solvent collection containers.

(3) For routine flushing of resin and gel coat application equipment, such as spray guns, flowcoaters, brushes, rollers, and squeegees, owners or operators must use a cleaning solvent that contains no hazardous air pollutants (HAPs). However, recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subdivision. For removing cured resin or gel coat from application equipment, no organic HAP limit applies.

(4) Clean-up rags with solvent shall be stored in closed containers.

(5) Closed containers shall be used for the storage of the following:

(A) All production and tooling resins that contain HAPs.

(B) All production and tooling gel coats that contain HAPs.

(C) Waste resins and gel coats that contain HAPs.

(D) Cleaning materials, including waste cleaning materials.

(E) Other materials that contain HAPs.

The covers of the closed containers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 20-48-3)*

326 IAC 20-48-4 Operator training

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 4. (a) Each owner or operator shall train all new and existing personnel, including contract personnel, who are involved in resin and gel coat spraying and applications that could result in excess emissions if performed improperly according to the following schedule:

(1) All personnel hired shall be trained within fifteen (15) days of hiring.

(2) To ensure training goals listed in subsection (b) are maintained, all personnel shall be given refresher training annually.

(3) Personnel who have been trained by another owner or operator subject to this rule are exempt from subdivision (1) if written documentation that the employee's training is current is provided to the new employer.

(b) The lesson plans shall cover, for the initial and refresher training, at a minimum, all of the following topics:

(1) Appropriate application techniques.

(2) Appropriate equipment cleaning procedures.

(3) Appropriate equipment setup and adjustment to minimize material usage and overspray.

(c) The owner or operator shall maintain the following training records on site and available for inspection and review:

(1) A copy of the current training program.

(2) A list of all current personnel, by name, that are required to be trained and the dates they were trained and the date of the most recent refresher training.

(d) Records of prior training programs and former personnel are not required to be maintained. *(Air Pollution Control Board; 326 IAC 20-48-4)*

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 6, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 20-25 and new rules under 326 IAC 20-48. The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rule and proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Additional information regarding this action may be obtained from Jean Beauchamp, Office of Air Quality, Rules Section, (317) 232-8424 or (800) 451-6027 (in Indiana). Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Management

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #02-122

DIGEST

Amends 326 IAC 6-1-14 concerning particulate rules, nonattainment area limitations in Wayne County. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2002, Indiana Register (25 IR 2592).

Second Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3493).

Notice of First Hearing: July 1, 2002, Indiana Register (25 IR 3495).

Date of First Hearing: September 4, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on July 1, 2002, at 25 IR 3493, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from July 1, 2002, through July 31, 2002, on IDEM's draft rule language.

No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 4, 2002, the air pollution control board (board) conducted the first public hearing/board meeting concerning the

development of amendments to 326 IAC 6-1-14. Comments were made by the following party:

Anthony Sullivan, Richmond Power and Light Company, RPL

Following is a summary of the comments received and IDEM's responses thereto:

Comment: We recommend that the board preliminarily adopt the draft rule and we will continue to work with the department to resolve the issue of limiting the combined tons per year to seven hundred (700) tons per year. (RPL)

Response: The department will reevaluate the basis for this limit an will work with Richmond Power and Light Company to resolve this issue.

326 IAC 6-1-14

SECTION 1. 326 IAC 6-1-14, AS AMENDED AT 25 IR 756, SECTION 15, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6-1-14 Wayne County

Authority: IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 14. In addition to the emission limitations contained in section 2 of this rule, the following limitations apply to sources in Wayne County:

WAYNE COUNTY

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits tons/yr	lbs/million BTU	grains/dscf
Belden Wire and Cable (office)	0003	1P	Oil Boiler 39 MMBTU/Hr.	8.0	0.015	
Dana Perfect Circle–Richmond	0004	2P	Cupola	51.50		0.133
Joseph H. Hill Co. PLT-A	0007	5P	3 Oil Boilers (Single Stack) 30 MMBTU/Hr.	1.40	0.015	
		6P	Oil Boiler 22.5 MMBTU/Hr.	1.0	0.015	
Joseph H. Hill Co. PLT-B	0031	7P	3 Oil Boilers (Single Stack) 175 MMBTU/Hr.	5.60	0.015	
Joseph H. Hill Co. PLT-C	0032	8P	Oil Boiler No. 1 19 MMBTU/Hr.	0.70	0.015	
		9P	Oil Boiler No. 2 7 MMBTU/Hr.	0.30	0.015	
Dana Perfect Circle–Hagerstown	0014	10P	Gas Boiler 50 MMBTU/Hr.	2.10	0.010	
Richmond Milestone Contractors	0008	13P	Rotary Dryer	50.80		0.158
Cambridge City Milestone Contractors	0028	14P	Rotary Dryer	67.4		0.218
Johns Manville Corporation	0006	15P	25 MMBTU/Hr. Natural Gas Boiler	1.5	0.0137	
		16P	Lines 2 and 3 Natural Gas Melt Furnaces	7.8		0.01
		17P	Line 6 Electric Melt Furnace	3.9		0.020
		19P	Line 3 Curing Oven	27.4		0.02
		20P	Line 6 Curing Oven	6.2		0.02
		21P	Line 2 Forming Process	58.3		0.02
		22P	Line 3 Forming Process	123.6		0.02
		23P	Line 6 Forming Process	45.4		0.02
Richmond State Hospital	0025	24P	(4 Gas/Oil Boilers) 123.4 MMBTU/Hr.	7.7	0.014	
Schrock Cabinet Company	0015	26P	Wood Boiler 10 MMBTU/Hr.	7.60	0.190	
		27P	Coal Boiler 10 MMBTU/Hr.	6.90	0.280	
Richmond Power & Light	0009	28P	Coal Boiler No. 1 385 MMBTU/Hr.	~~71.6~~ **320****	0.19**	
		29P	Coal Boiler No. 2 730 MMBTU/Hr.	~~233.3~~ **700****	0.22**	
Earlham College		31P	Oil Boiler 14 MMBTU/Hr.	0.70	0.080	
Purina Mills, Inc.	0033	32P	2 Oil Boilers One Stack 27 MMBTU/Hr.	1.0	0.015	
Wallace Metals	0011	33P	Oil Boiler 6.5 MMBTU/Hr.	0.10	0.015	
Design & Manufacturing		34P	1 Coal Boiler 43.5 MMBTU/Hr.	38.20	0.350	
Barrett Paving Materials	0029	24	Primary Crushing	17.40		
			Secondary Crushing	63.3		
			Screening/Conveying/Handling	292.4		

Wayne County Farm Bureau	0021	39	Shipping/Receiving, Transferring/Conveying, Screening/Cleaning, Drying	10.40
Farmer's Grain	0017	47	Shipping, Receiving, Transferring, Conveying, Drying	732.0
Belden Wire and Cable (plant)	0003	39	Plastic Compounding	8.0
			Rubber Mixing	0.14
			Pneumatic	10.80

The combined emissions from Coal Boiler No. 1 and Coal Boiler No. 2 shall not exceed 0.22 lbs/MMBTU **or 700 tons/year. *(Air Pollution Control Board; 326 IAC 6-1-14; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2482; filed Jun 15, 1995, 1:00 p.m.: 18 IR 2727; errata filed Jul 6, 1995, 5:00 p.m.: 18 IR 2795; filed Sep 24, 1999, 9:57 a.m.: 23 IR 301; filed Nov 8, 2001, 2:02 p.m.: 25 IR 756)*

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 6, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the air pollution control board will hold a public hearing on proposed amendments to 326 IAC 6-1-14.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Jean Beauchamp, Office of Air Quality, Rules Section, (317) 232-8424 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Tenth Floor, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 6, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 6-1-14. The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Jean Beauchamp, Office of Air Quality, Rules Section, (317) 232-8424 or (800) 451-6027 (in Indiana). Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

TITLE 327 WATER POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #01-348

DIGEST

Amends 327 IAC 8-2 and 327 IAC 8-2.1 and adds 327 IAC 8-2.5 and 327 IAC 8-2.6 concerning interim enhanced surface

water treatment, disinfectants/disinfection byproducts, and filter backwash. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: October 1, 2001, Indiana Register (25 IR 206).

Second Notice of Comment Period: June 1, 2002, Indiana Register (25 IR 2863).

Notice of First Hearing: June 1, 2002, Indiana Register (25 IR 2863).

Change of Notice for First Hearing: August 1, 2002, Indiana Register (25 IR 3806).

Date of First Hearing: August 14, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on June 1, 2002, at 25 IR 2863, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from June 1, 2002, through June 30, 2002, on IDEM's draft rule language. IDEM received comments from the following parties:

Indiana-American Water Company, Inc. (IAWC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: In 327 IAC 8-2-1(36)(A), Cryptosporidium as an indicator for ground water under the direct influence of surface water is only applicable to Subpart H systems serving > 10,000 population. (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2-1(46), should the rest of the information in 40 CFR § 141.2 be included? (IAWC)

Response: The rest of the information in 40 CFR 141.2 is not part of a definition. It has been incorporated into the rule elsewhere.

Comment: In 327 IAC 8-2-1(47), the definition in the federal rule also includes the following text, "MRDGLs are nonenforceable health goals and do not reflect the benefit of the addition of chemical for control of waterborne microbial contaminants". (IAWC)

Response: The part of the federal definition you are referring to is describing enforceability. IDEM does not include that type of information in the definition section.

Comment: In 327 IAC 8-2-13(a), the added text should read "as certified by the commissioner", rather than "as certified by the Commissioner". In 327 IAC 8-2.6-3(1)(C) and (2), commissioner should be lower case. (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2.1-8(b)(5), is (D) necessary since IDEM does not grant variances or exemptions and does not have rules in place to grant them? (IAWC)

Response: IDEM agrees. 327 IAC 8-2.1-8(b)(5)(D) is not necessary. The language has been removed.

Comment: In 327 IAC 8-2.1-16, Table 16, Section 3 should also include 327 IAC 8-2.6-3(1)(B) and 327 IAC 8-2.6-3(2) in the MCL/MRDL/TT/AL Violations Citation Column and 327 IAC 8-2.6-4 in the Monitoring and Testing Procedures Violation Column. There should also be a section as follows:

Contaminant	MCL/MRDL/TT/AL Violations Citation	Monitoring and Testing Procedures Violations Citation
Interim Enhanced Surface Water Treatment Rule violations, other than violations resulting from single exceedance of maximum allowable turbidity level	327 IAC 8-2.6-1 through 327 IAC 8-2.6-3	327 IAC 8-2.6-2 327 IAC 8-2.6-4

Also in that table, section G should include the information in 40 CFR 141, Subpart Q, Appendix A. (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: The information included in 327 IAC 8-2.1-17 should also be included in 327 IAC 8-2.1-6(c). The paragraphs labeled, "Add for public notification only" will not need to be included in 327 IAC 8-2.1-6(c). After the information is added to 327 IAC 8-2.1-6(c), the labels (Add for public notification only) can be removed from the references in 327 IAC 8-2.1-17. The contaminants added to 327 IAC 8-2.1-17 also need to be added to the tables in 327 IAC 8-2.1-6(a) and (b). (IAWC)

Response: The contaminants in 327 IAC 8-2.1-17 were added to the tables in 327 IAC 8-2.1-6(a) and 327 IAC 8-2.1-6(b). The information in 327 IAC 8-2.1-17 was not added to 327 IAC 8-2.1-6(c) because there is no alternate health effects language for the contaminants added to 327 IAC 8-2.1-17. 327 IAC 8-2.1-6(c) refers back to 327 IAC 8-2.1-17 and only lists specific language if it is different from the language in 327 IAC 8-2.1-17.

Comment: In 327 IAC 8-2.5-5(b), section (3) does not seem to pertain to the analytical methods in the rest of the section. Does it belong somewhere else? It may belong in 327 IAC 8-2.5-6(b)(2). (IAWC)

Response: IDEM thinks the language is most appropriate where it is placed.

Comment: In 327 IAC 8-2.5-5(c)(3), Indiana-American Water Company, Inc. recommends the following language: "Residual disinfectant concentration may be measured by a certified operator or other competent individual under the supervision of a certified operator." The current language does not allow people who are training to become operators and working under the direct supervision of an operator to measure residual disinfectant concentration. In 327 IAC 8-2.5-5(e), Indiana-American Water Company, Inc. recommends the following language: "Parameters measured under subsection (d) must be measured by a certified operator or other competent individual under the supervision of a certified operator." The current language does not allow people who are training to become operators and working under the direct supervision of an operator to measure alkalinity, pH, bromide, TOC, UV_{254}, or DOC. (IAWC)

Response: IDEM agrees. The language has been changed to include other parties approved by the commissioner.

Comment: In 327 IAC 8-2.5-6(b)(2)(A)(ii) and (b)(2)(B), the locations to be monitored are the same, could this be listed once, and then referenced? (IAWC)

Response: The locations are not necessarily the same.

Comment: In 327 IAC 8-2.5-6(c)(2), parts (C) and (D) should be subsets of part (B). (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2.5-6(f)(6)(C), "or if providing water to a consecutive system" should be clarified. This requirement only applies in the federal rule if the requirements of 40 CFR § 141.29 are met. (IAWC)

Response: IDEM agrees. The language has been removed.

Comment: In 327 IAC 8-2.5-7(c)(2)(A)(iii), the reference should be to sections 7 through 17 of 327 IAC 8-2.1, rather than sections 3 through 17. In 327 IAC 8-2.5-7(c)(2)(B)(ii), the reference should be to sections 7 through 17 of 327 IAC 8-2.1, rather than sections 3 through 17 of 327 IAC 8-2. (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2.5-9(a)(2)(C)(ii)(BB), can "a violation of the National Primary Drinking Water Regulations" be referenced in the state rule without either defining it or incorporating them by reference? What is this actually a violation of? (IAWC)

Response: The language has been removed.

Comment: In 327 IAC 8-2.5-9(b) and (c), references to 2 different "Step 2"'s is confusing? (IAWC)

Response: The Step 2's in each respective subsection are completely independent of each other. The Steps referenced in subsection (b) are taken from federal language. The STEPS (all caps) referenced in subsection (c) are the Legislative Services Agency's (LSA) style of writing out a calculation.

Comment: In 327 IAC 8-2.6-1(a), viruses should be their own reference, leaving the list as follows:

(1) Giardia lamblia
(2) Viruses
(3) Heterotrophic plate count bacteria
(4) Legionella
(5) Cryptosporidium
(6) Turbidity

(IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2.6-2, are (a) and (b) necessary or could the federal regulation (40 CFR § 141.172) be incorporated by reference since all the dates are in the past? (IAWC)

Response: Subsections (a) and (b) are necessary and have been adopted into the LSA style language as has the rest of this rulemaking.

Comment: In 327 IAC 8-2.6-4(a), the phrase "subject to the requirements of this section" is redundant. (IAWC)

Response: IDEM agrees. The language has been removed.

Comment: In 327 IAC 8-2.6-5, in order to have the correct number of significant digits, in part (2), the references in (A) and (C) should be to one and zero-tenths (1.0) and the reference in (D) should be to two and zero-tenths (2.0). (IAWC)

Response: IDEM agrees. The language has been changed.

Comment: In 327 IAC 8-2.6-6(3), requiring recycle flow information "on forms provided by the department" would require all plant schematics and other information to be on IDEM forms. In addition, if that is what is intended, should the reference be "on forms provided by the commissioner" rather than the department? (IAWC)

Response: IDEM agrees. The language has been clarified to specify what information will be on the forms. The language will remain "on forms provided by the department for review and evaluation by the commissioner".

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On August 14, 2002, the water pollution control board conducted the first public hearing/board meeting concerning the development of amendments to 327 IAC 8-2 and 327 IAC 8-2.1 and new rules 327 IAC 8-2.5 and 327 IAC 8-2.6. No comments were made at the first hearing.

327 IAC 8-2-1
327 IAC 8-2-5
327 IAC 8-2-5.3
327 IAC 8-2-6
327 IAC 8-2-8.5
327 IAC 8-2-13
327 IAC 8-2-29
327 IAC 8-2-30
327 IAC 8-2-31
327 IAC 8-2-48
327 IAC 8-2.1-3
327 IAC 8-2.1-4
327 IAC 8-2.1-6
327 IAC 8-2.1-8
327 IAC 8-2.1-16
327 IAC 8-2.1-17
327 IAC 8-2.5
327 IAC 8-2.6

SECTION 1. 327 IAC 8-2-1, AS AMENDED AT 25 IR 1075, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-1 Definitions

Authority: IC 13-13-5; IC 13-14-8-7; IC 13-14-9; IC 13-18-3; IC 13-18-16
Affected: IC 13-11-2; IC 13-18

Sec. 1. In addition to the definitions contained in IC 13-11-2 and 327 IAC 1, the following definitions apply throughout this rule, **327 IAC 8-2.1, 327 IAC 8-2.5, and 327 IAC 8-2.6**:

(1) "Act" means the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) "Action level" means the concentration of lead or copper in water specified in section 36(c) of this rule which determines, in some cases, the treatment requirements contained in sections 36 through 47 of this rule, that a water system is required to complete.

(3) "Adjustment program" means the addition of fluoride to drinking water by a public water system for the prevention of dental cavities.

(4) "Administrator" means the administrator of the U.S. EPA.

(5) "Best available technology" **or** "BAT" means best technology, treatment techniques, or other means which the commissioner finds are available, after examination for efficacy under field conditions, and not solely under laboratory conditions, and after taking cost into consideration. For the purpose of setting maximum contaminant levels for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon.

(6) "Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

(7) "Commissioner" means the commissioner of the Indiana department of environmental management or the designated agent of the commissioner.

(8) "Community water system" **or "CWS"** means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

(9) "Compliance cycle" means the nine (9) year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three (3) three-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1,

2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019.

(10) "Compliance period" means a three (3) year calendar year period within a compliance cycle. Each compliance cycle has three (3) three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001. Within the second compliance cycle, the first compliance period runs from January 1, 2002, to December 31, 2004; the second from January 1, 2005, to December 31, 2007; and the third from January 1, 2008, to December 31, 2010. Within the third compliance cycle, the first compliance period runs from January 1, 2011, to December 31, 2013; the second from January 1, 2014, to December 31, 2016; and the third from January 1, 2017, to December 31, 2019.

(11) "Comprehensive performance evaluation" or "CPE" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with 327 IAC 8-2.6-1, the comprehensive performance evaluation must consist of at least the following components:

(A) Assessment of plant performance.

(B) Evaluation of major unit processes.

(C) Identification and prioritization of performance limiting factors.

(D) Assessment of the applicability of comprehensive technical assistance.

(E) Preparation of a CPE report.

~~(11)~~ **(12)** "Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

~~(12)~~ **(13)** "Contaminant" means any micro-organisms, chemicals, waste, physical substance, radiological substance, or any wastewater introduced or found in the drinking water.

~~(13)~~ **(14)** "Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

~~(14)~~ **(15)** "Corrosion inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

~~(15)~~ **(16)** "CT" or "CTcalc" is the product of residual disinfectant concentration (C) in milligrams per liter determined before or at the first customer and the corresponding disinfectant contact time (T) in minutes, such as C × T. If a public water system applies disinfectants at more than one (1) point prior to the first customer, it must determine the CT of each disinfectant sequence before or at the first customer to determine the total percent inactivation or total inactivation ratio. In determining the total inactivation ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point. $CT_{99.9}$ is the CT value required for ninety-nine and nine-tenths percent (99.9%) (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appears in Tables 1.1-1.6, 2.1, and 3.1 of paragraph 141.74(b)(3)[1].

$$\frac{CTcalc}{CT_{99.9}}$$

is the inactivation ratio. The sum of the inactivation ratios or total inactivation ratio shown as:

$$\sum \frac{(CTcalc)}{(CT_{99.9})}$$

is calculated by adding together the inactivation ratio for each disinfection sequence. A total inactivation ratio equal to or greater than one (1.0) is assumed to provide a 3-log inactivation of Giardia lamblia cysts.

~~(16)~~ **(17)** "Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which:

(A) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum); and

(B) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

~~(17)~~ **(18)** "Direct filtration" means a series of processes, including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

~~(18)~~ **(19)** "Disinfectant" means any oxidant, including, but not limited to, chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic micro-organisms.

~~(19)~~ **(20)** "Disinfectant contact time" (T in CT calculations) means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration (C) is measured. Where only one (1) C is measured, T is the time in minutes that it takes for water to move from the point of disinfectant application to a point before or at where C is measured. Where more than one (1) C is measured, T is:

(A) for the first measurement of C, the time in minutes that it takes for water to move from the first or only point of disinfectant application to a point before or at the point where the first C is measured; and

(B) for subsequent measurements of C, the time in minutes that it takes for water to move from the previous C mea-

surement point to the C measurement point for which the particular T is being calculated.

Disinfectant contact time in pipelines must be calculated based on plug flow by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

~~(20)~~ **(21)** "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

(22) "Disinfection profile" means a summary of daily Giardia lamblia inactivation through a treatment plant.

~~(21)~~ **(23)** "Domestic or other nondistribution system plumbing problem" means a coliform contamination problem in a public water system with more than one (1) service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

~~(22)~~ **(24)** "Dose equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRUM).

~~(23)~~ **(25)** "Drinking water violation" means violations of the maximum contaminant level (MCL), treatment technique (TT), monitoring requirements, and testing procedures in this rule. 327 IAC 8-2.1-16 identifies the tier assignment for each specific violation or situation requiring a public notice.

~~(24)~~ **(26)** "Effective corrosion inhibitor residual" means a concentration sufficient to form a passivating film on the interior walls of a pipe for the purpose of sections 36 through 47 of this rule only.

(27) "Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

(28) "Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

(29) "Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

~~(25)~~ **(30)** "Filtration" means a process for removing particulate matter from water by passage through porous media.

~~(26)~~ **(31)** "First draw sample" means a one (1) liter sample of tap water collected in accordance with section 37 of this rule, that has been standing in the plumbing pipes at least six (6) hours and is collected without flushing the tap.

~~(27)~~ **(32)** "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

(33) "GAC10" means granular activated carbon filter beds with an empty-bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days.

~~(28)~~ **(34)** "Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

~~(29)~~ **(35)** "Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

~~(30)~~ **(36)** "Ground water under the direct influence of surface water" means any water beneath the surface of the ground with:

(A) significant occurrence of insects or other macro-organisms, algae, or large-diameter pathogens such as Giardia lamblia or, **for subpart H systems serving at least ten thousand (10,000) individuals only, Cryptosporidium;** or

(B) significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

Direct influence must be determined for individual sources in accordance with criteria established by the commissioner. The commissioner's determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation.

(37) "Haloacetic acids (five)" or "HAA5" means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two (2) significant figures after addition.

~~(31)~~ **(38)** "Halogen" means one (1) of the chemical elements chlorine, bromine, or iodine.

~~(32)~~ **(39)** "Initial compliance period" means January 1993 to December 1995, for the contaminants listed in sections 4 (other than arsenic, barium, cadmium, fluoride, lead, mercury, selenium, and silver), 5, and 5.4(a) (other than benzene, vinyl chloride, carbon tetrachloride, 1,2-dichloroethane, trichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, and para-dichlorobenzene) of this rule.

~~(33)~~ **(40)** "Large water system" means a water system that serves more than fifty thousand (50,000) people for the purpose of sections 36 through 47 of this rule only.

~~(34)~~ **(41)** "Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting which is connected to such lead line.

~~(35)~~ **(42)** "Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

~~(36)~~ **(43)** "Manmade beta particle and photon emitters" means all radionuclides emitting beta particle and/or photons listed in "Maximum Permissible Body Burdens and Maximum

Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure", NBS Handbook 69, as amended August 1973, U.S. Department of Commerce, except the daughter products of thorium-232, uranium-235, and uranium-238.

~~(37)~~ **(44)** "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

~~(38)~~ **(45)** "Maximum contaminant level goal (MCLG)" means the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur and which includes an adequate margin of safety. Maximum contaminant level goals are nonenforceable health goals.

(46) "Maximum residual disinfectant level" or "MRDL" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects.

(47) "Maximum residual disinfectant level goal" or "MRDLG" means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of individuals would occur, and which allows an adequate margin of safety.

~~(39)~~ **(48)** "Maximum total trihalomethane potential" **or** "MTP" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven (7) days at a temperature of twenty-five (25) degrees Celsius or above.

~~(40)~~ **(49)** "Medium size water system" means a water system that serves greater than three thousand three hundred (3,300) and less than or equal to fifty thousand (50,000) persons for the purpose of sections 36 through 47 of this rule only.

~~(41)~~ **(50)** "Near the first service connection" means at one (1) of the twenty percent (20%) of all service connections in the entire system that are nearest the water supply treatment facility, as measured by water transport time within the distribution system.

~~(42)~~ **(51)** "Noncommunity water system" means a public water system which has at least fifteen (15) service connections used by nonresidents or which regularly serves twenty-five (25) or more nonresident individuals daily for at least sixty (60) days per year.

~~(43)~~ **(52)** "Nontransient noncommunity water system" **or** "NTNCWS" means a public water system that is not a community water system which regularly serves the same twenty-five (25) or more persons at least six (6) months per year.

~~(44)~~ **(53)** "Optimal corrosion control treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the water system to violate any national primary drinking water regulations for the purpose of sections 36 through 47 of this rule only.

~~(45)~~ **(54)** "Performance evaluation sample" means a reference sample provided to a laboratory for the purpose of demonstrating that the laboratory can successfully analyze the sample within limits of performance specified by the administrator. The true value of the concentration of the reference material is unknown to the laboratory at the time of the analysis.

~~(46)~~ **(55)** "Picocuri (pCi)" means the quantity of radioactive material producing two and twenty-two hundredths (2.22) nuclear transformations per minute.

~~(47)~~ **(56)** "Point of disinfectant application" is the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water run-off.

~~(48)~~ **(57)** "Point-of-entry treatment device" **or** "POE" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in drinking water distributed throughout the house or building.

(~~49~~) **(58)** "Point-of-use treatment device" **or** "POU" is a treatment device to a single tap used for the purpose of reducing contaminants in drinking water at that one (1) tap.

~~(50)~~ **(59)** "Primacy agency" is the department of environmental management where the department exercise primary enforcement responsibility as granted by EPA.

~~(51)~~ **(60)** "Public water system" means a public water supply for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. "Public water system" includes any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. A public water system is either a community water system or a noncommunity water system, as defined in subdivisions (8) and ~~(42).~~ **(51).**

~~(52)~~ **(61)** "Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A millirem (mrem) is one-thousandth (1/1,000) of a rem.

~~(53)~~ **(62)** "Repeat compliance period" means any subsequent compliance period after the initial compliance period.

~~(54)~~ **(63)** "Residual disinfectant concentration"(C in CT calculations) means the concentration of disinfectant measured in milligrams per liter in a representative sample of water.

~~(55)~~ **(64)** "Sanitary survey" means an on-site inspection of the water source, facilities, equipment, construction, and opera-

tion and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, construction, and operation and maintenance for producing and distributing safe drinking water.

~~(56)~~ **(65)** "Sedimentation" means a process for removal of solids before filtration by gravity or separation.

~~(57)~~ **(66)** "Service line sample" means a one (1) liter sample of water collected in accordance with section 37(b)(3) of this rule that has been standing at least six (6) hours in a service line.

~~(58)~~ **(67)** "Single family structure" means a building constructed as a single family residence that is currently being used as either a residence or a place of business for the purpose of sections 36 through 47 of this rule only.

~~(59)~~ **(68)** "Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than four-tenths (0.4) meter per hour or forty-five (45) to one hundred fifty (150) gallons per day per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

~~(60)~~ **(69)** "Small water system" means a water system that serves three thousand three hundred (3,300) persons or fewer for the purpose of sections 36 through 47 of this rule only.

~~(61)~~ **(70)** "Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

(71) "Subpart H system" means a public water system using surface water or ground water under the direct influence of surface water as a source that is subject to the requirements of 327 IAC 8-2.6-1.

~~(62)~~ **(72)** "Supplier of water" means any person who owns and/or operates a public water system.

~~(63)~~ **(73)** "Surface water" means all water occurring on the surface of the ground, including water in a stream, natural and artificial lakes, ponds, swales, marshes, and diffused surface water.

(74) "SUVA" means specific ultraviolet absorption at two hundred fifty-four (254) nanometers, an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of two hundred fifty-four (254) nanometers (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in milligrams per liter).

~~(64)~~ **(75)** "System with a single service connection" means a public water system which supplies drinking water to consumers via a single service line.

~~(65)~~ **(76)** "Too numerous to count" means that the total number of bacterial colonies exceeds two hundred (200) on a forty-seven (47) millimeter diameter membrane filter used for coliform detection.

(77) "Total organic carbon" or "TOC" means total organic carbon in milligrams per liter, measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures.

~~(66)~~ **(78)** "Total trihalomethanes" **or** "TTHM" means the sum of the concentration in milligrams per liter of the trihalomethane compounds:

(A) trichloromethane (chloroform);
(B) dibromochloromethane;
(C) bromodichloromethane; and
(D) tribromomethane (bromoform);

rounded to two (2) significant figures.

~~(67)~~ **(79)** "Transient noncommunity water system" **or** "TWS" means a noncommunity water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.

~~(68)~~ **(80)** "Trihalomethane" **or** "THM" means one (1) of the family of organic compounds, named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

(81) "Uncovered finished water storage facility" means a tank, reservoir, or other facility open to the atmosphere that is used to store water that will undergo no further treatment except residual disinfection.

~~(69)~~ **(82)** "U.S. EPA" or "EPA" means the United States Environmental Protection Agency.

~~(70)~~ **(83)** "Virus" means a virus of fecal origin which is infectious to humans by waterborne transmission.

~~(71)~~ **(84)** "Waterborne disease outbreak" means the significant occurrence of acute infectious illness epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment as determined by the commissioner.

[1]Federal Register, Part II, 40 CFR 141, June 29, 1989, Volume 54, Number 124, pages 27532 through 27534. *(Water Pollution Control Board; 327 IAC 8-2-1; filed Sep 24, 1987, 3:00 p.m.: 11 IR 705; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1003; errata filed Jan 9, 1991, 2:30 p.m.: 14 IR 1070; errata filed Aug 6, 1991, 3:45 p.m.: 14 IR 2258; filed Apr 12, 1993, 11:00 a.m.: 16 IR 2151; filed Aug 24, 1994, 8:15 a.m.: 18 IR 19; errata filed Oct 11, 1994, 2:45 p.m.: 18 IR 531; filed Oct 24, 1997, 4:30 p.m.: 21 IR 932; filed Mar 6, 2000, 7:56 a.m.: 23 IR 1623; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1075)*

SECTION 2. 327 IAC 8-2-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-5 Organic chemicals other than volatile compounds; maximum contaminant levels

Authority: IC 13-13-5; IC 13-14-8-7; IC 13-14-9; IC 13-18-3; IC 13-18-16
Affected: IC 13-18

Sec. 5. (a) The MCLs for the following synthetic organic chemicals apply to all community water systems and nontransient noncommunity water systems, except as provided in subsection (c) for total trihalomethanes:

Contaminant	Level in Milligrams Per Liter
Total trihalomethanes ~~(the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform))~~	0.10

CAS No.	Contaminant	MCL (mg/l)
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
50-32-8	Benzo[a]pyrene	0.0002
1563-66-2	Carbofuran	0.04
57-74-9	Chlordane	0.002
75-99-0	Dalapon	0.2
96-12-8	1,2-dibromo-3-chloropropane (DBCP)	0.0002
103-23-1	Di(2-ethylhexyl)adipate	0.4
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007
85-00-7	Diquat	0.02
94-75-7	2,4-D	0.07
145-73-3	Endothall	0.1
72-20-8	Endrin	0.002
106-93-4	Ethylene dibromide	0.00005
1071-53-6	Glyphosate	0.7
76-44-8	Heptachlor	0.0004
1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane	0.0002
72-43-5	Methoxychlor	0.04
23135-22-0	Oxamyl (vydate)	0.2
1918-02-1	Picloram	0.5
1336-36-3	Polychlorinated biphenyls	0.0005
87-86-5	Pentachlorophenol	0.001
122-34-9	Simazine	0.004
8001-35-2	Toxaphene	0.003
1746-01-6	2,3,7,8-TCDD (dioxin)	3×10^{-8}
93-72-1	2,4,5-TP	0.05

(b) For the synthetic organic chemicals listed in this section other than total trihalomethanes, monitoring frequency is specified in section 5.1 of this rule, and analytical methods are specified in section 5.2 of this rule.

(c) The MCL **of one-tenth (0.10) milligram per liter** for total trihalomethanes ~~listed in this section~~ applies ~~only to~~ **as follows:**

(1) A subpart H community water ~~systems~~ **system** which ~~serve~~ **serves** a population of ten thousand (10,000) or more individuals ~~and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process.~~ **until December 31, 2001.**

(2) A CWS that uses only ground water not under the direct influence of surface water and serve a population of ten thousand (10,000) or more individuals until December 31, 2003.

Compliance with the MCL for total trihalomethanes is calculated under section 5.3 of this rule. **After December 31, 2003, this subsection is no longer applicable.**

(d) The commissioner hereby identifies, as indicated in the following table, granular activated carbon (GAC), packed tower aeration (PTA), or oxidation (OX) as the best technology, treatment technique, or other means available for achieving compliance with the MCL for synthetic organic contaminants identified in subsection (a):

BAT for Synthetic Organic Contaminants
Listed in Subsection (a)

CAS No.	Contaminant	GAC	PTA	OX
15972-60-8	Alachlor	X		
1912-24-9	Atrazine	X		
50-32-8	Benzo[a]pyrene	X		
1563-66-2	Carbofuran	X		
57-74-9	Chlordane	X		
94-75-7	2,4-D	X		
75-99-0	Dalapon	X		
96-12-8	1,2-dibromo-3-chloropropane (DBCP)	X	X	
103-23-1	Di(2-ethylhexyl)adipate	X	X	
117-81-7	Di(2-ethylhexyl)phthalate	X		
88-85-7	Dinoseb	X		
85-00-7	Diquat	X		
145-73-3	Endothall	X		
72-20-8	Endrin	X		
106-93-4	Ethylene dibromide (EDB)	X	X	
1071-53-6	Glyphosate			X
76-44-8	Heptachlor	X		
1024-57-3	Heptachlor epoxide	X		
118-74-1	Hexachlorobenzene	X		
77-47-3	Hexachlorocyclopentadiene	X	X	
58-89-9	Lindane	X		
72-43-5	Methoxychlor	X		
23135-22-0	Oxamyl (vydate)	X		
1918-02-1	Picloram	X		
1336-36-3	Polychlorinated biphenyls (PCBs)	X		

87-86-5	Pentachlorophenol	X	
93-72-1	2,4,5-TP (silvex)	X	
122-34-9	Simazine	X	
1746-01-6	2,3,7,8-TCDD (dioxin)	X	
8001-35-2	Toxaphene	X	X

(Water Pollution Control Board; 327 IAC 8-2-5; filed Sep 24, 1987, 3:00 p.m.: 11 IR 706; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1009; errata filed Aug 6, 1991, 3:45 p.m.: 14 IR 2258; filed Aug 24, 1994, 8:15 a.m.: 18 IR 32; errata filed Oct 11, 1994, 2:45 p.m.: 18 IR 531; filed Aug 25, 1997, 8:00 a.m.: 21 IR 43)

SECTION 3. 327 IAC 8-2-5.3, AS AMENDED AT 25 IR 1086, SECTION 6, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-5.3 Collection of samples for total trihalomethanes testing; community water systems

Authority: IC 13-13-5; IC 13-14-8-7; IC 13-14-9; IC 13-18-3; IC 13-18-16
Affected: IC 13-11-2; IC 13-14-8; IC 13-18-1; IC 13-18-2

Sec. 5.3. (a) To determine compliance with section 5 of this rule, each community water system which serves ten thousand (10,000) or more individuals and which adds a disinfectant (oxidant) to the water in any part of the drinking water treatment process shall collect and analyze samples for total trihalomethanes (TTHM) in accordance with this section. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, with the commissioner's approval, be considered one (1) treatment plant for determining the minimum number of samples. All samples taken within an established frequency shall be collected within a twenty-four (24) hour period.

(b) The requirements of subsection (a) apply as follows:

(1) Community water systems which utilize surface water sources in whole or in part, and community water systems which utilize only ground water sources and which have not been determined by the commissioner to qualify for the monitoring requirements of subsection (c) shall analyze for TTHM at quarterly intervals on at least four (4) water samples for each treatment plant used by the system. At least twenty-five percent (25%) of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining seventy-five percent (75%) shall be taken at representative locations in the distribution system, taking into account number of persons served, different sources of water, and different treatment methods employed. The results of all analyses per quarter shall be arithmetically averaged and reported to the commissioner within thirty (30) days of the system's receipt of such results. All samples collected shall be used in the computation of the average, unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in subsection (e).

(2) Upon the written request of a community water system, the monitoring frequency required by subdivision (1) may be reduced by the commissioner to a minimum of one (1) sample analyzed for TTHM per quarter taken at a point in the distribution system reflecting the maximum residence time of the water in the system. Upon a written determination by the commissioner that the data from at least one (1) year of monitoring in accordance with subdivision (1) and local conditions demonstrate that TTHM concentrations will be consistently below the MCL.

(3) If, at any time during which the reduced monitoring frequency prescribed under this section applies, the results from any analysis exceed ten-hundredths (0.10) milligram per liter of TTHM and such results are confirmed by at least one (1) check sample taken promptly after such results are received, or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with the requirements of subdivision (1) which monitoring shall continue for at least one (1) year before the frequency may be reduced again. At the discretion of the commissioner, a system's monitoring frequency shall be increased above the minimum in those cases where it is necessary to detect variations of TTHM levels within the distribution system.

(c) Monitoring frequency required by this section may only be reduced as follows:

(1) Upon written request to the commissioner, a community water system utilizing only ground water sources may seek to have the monitoring frequency required by subsection (a) reduced to a minimum of one (1) sample for maximum TTHM potential per year for each treatment plant used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the system. The system shall submit, to the commissioner, the results of at least one (1) sample analyzed for maximum TTHM potential using the procedure specified in subsection (g). A sample must be analyzed from each treatment plant used by the system and be taken at a point in the distribution system reflecting the maximum residence time of the water in the system. The system's monitoring frequency may only be reduced upon a written determination by the commissioner that, based upon the data submitted by the system, the system has a maximum TTHM potential of less than ten-hundredths (0.10) milligram per liter and that, based upon an assessment of the local condition of the system, the system is not likely to approach or exceed the MCL for total TTHMs. The results of all analyses shall be reported to the commissioner within thirty (30) days of the system's receipt of such results. All samples collected shall be used for determining whether the system must comply with the monitoring requirements of subsection (a) unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted

in accordance with the methods listed in subsection (e).

(2) If, at any time during which the reduced monitoring frequency prescribed under subdivision (1) applies, the results from any analysis taken by the system for maximum TTHM potential are equal to or greater than ten-hundredths (0.10) milligram per liter, and such results are confirmed by at least one (1) check sample taken promptly after such results are received, the system shall immediately begin monitoring in accordance with the requirements of subsection (b) and such monitoring shall continue for at least one (1) year before the frequency may be reduced again. In the event of any significant change to the system's source of water or treatment program, the system shall immediately analyze an additional sample for maximum TTHM potential taken at a point in the distribution system reflecting maximum residence time of the water in the system for the purpose of determining whether the system must comply with monitoring requirements of subsection (b). At the discretion of the commissioner, monitoring frequencies may and should be increased above the minimum in those cases where this is necessary to detect variation of TTHM levels within the distribution system.

(d) Compliance with section 5 of this rule for TTHM shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in subsection (b)(1) or (b)(2). If the average of samples covering any four (4) consecutive quarterly periods exceeds the MCL, the supplier of water shall report to the commissioner under section 13 of this rule and notify the public under 327 IAC 8-2.1-7 through 327 IAC 8-2.1-16. Monitoring after public notification shall be at a frequency designated by the commissioner and shall continue until a monitoring schedule as a condition to an enforcement action shall become effective.

(e) Samples for TTHM shall be dechlorinated upon collection to prevent further production of trihalomethanes according to the procedures described in the methods, except acidification is not required if only TTHMs or THMs are to be determined. Samples for maximum TTHM potential should not be dechlorinated and should be held for seven (7) days at twenty-five (25) degrees Celsius or above prior to analysis. Analyses made under this section shall be conducted by one (1) of the following U.S. EPA approved methods:

(1) Method 502.2, Rev 2.1*.

(2) Method 524.2*.

(3) Method 551.1*.

(f) Before a community water system makes any significant modifications to its existing treatment process for the purpose of achieving compliance with the MCL established in section 5(a) of this rule, such system must submit and obtain the commissioner's approval of a detailed plan setting forth its proposed modification and those safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modification. Each system shall comply with the provisions set forth in the approved plan. At a minimum, a plan approved by the commissioner shall require the system modifying its disinfection practice to do the following:

(1) Evaluate the water system for sanitary defects and evaluate the source water for biological quality.

(2) Evaluate its existing treatment practices and consider improvements that will minimize disinfectant demand and optimize finished water quality throughout the distribution system.

(3) Provide baseline water quality survey data of the distribution system. Such data should include the results from monitoring for coliform and fecal coliform bacterial, fecal streptococci, standard plate counts at thirty-five (35) degrees Celsius and twenty (20) degrees Celsius, phosphate, ammonia nitrogen, and total organic carbon. Virus studies should be required where source waters are heavily contaminated with sewage effluent.

(4) Conduct additional monitoring to assure continued maintenance of optimal biological quality in finished water, for example, when chloramines are introduced as disinfectants or when prechlorination is being discontinued. Additional monitoring may also be required by the commissioner for chlorate, chlorite, and chlorine dioxide when chlorine dioxide is used. Standard plate count analysis may also be required by the commissioner as appropriate before and after any modifications.

(5) Consider inclusion in the plan provisions to maintain an active disinfectant residual throughout the distribution system at all times during and after modification.

(g) The water sample for determination of maximum trihalomethane potential is taken from a point in the distribution system that reflects maximum residence time. Procedures for sample collection and handling are given in the methods. No reducing agent is added to quench the chemical reaction producing THMs at the time of sample collection. The intent is to permit the levels of THM precursors to be depleted and the concentration of THMs to be maximized for the supply to be tested. Four (4) experimental parameters affecting maximum THM production are pH, temperature, reaction time, and the presence of a disinfectant residual. These parameters are dealt with as follows:

(1) Measure the disinfectant residual at the selected sampling point. Proceed only if a measurable disinfectant residual is present.

(2) Collect triplicate forty (40) milliliter water samples at the pH prevailing at the time of sampling and prepare a method blank according to the methods.

(3) Seal and store these samples together for seven (7) days at twenty-five (25) degrees Celsius or above.

(4) After this time period, open one (1) of the sample containers and check for disinfectant residual. Absence of a disinfectant residual invalidates the sample for further analysis. Once

a disinfectant residual has been demonstrated, open another of the sealed samples and determine total THM concentration using a method specified in subsection (e).

(h) The requirements in subsections (a) through (g) apply to each Subpart H CWS that serves a population of ten thousand (10,000) or more individuals until December 31, 2001. The requirements in subsections (a) through (g) apply to each CWS that uses only ground water not under the direct influence of surface water that add a disinfectant (oxidant) in any part of the treatment process and serves a population of ten thousand (10,000) or more individuals until December 31, 2003. After the above dates expire, the requirements of 327 IAC 8-2.5 apply to these systems.

*The methods referenced in this section may be obtained as follows:

(1) Method 502.2, Rev 2.1 may be found in "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", EPA/600/R-95-131, August 1995, available from NTIS, PB95-261616, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, (800) 553-6847.

(2) Method 551.1 may be found in "Methods for the Determination of Organic Compounds in Drinking Water–Supplement III", EPA/600/R-95-131, August 1995, available from NTIS, PB95-261616, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, (800) 553-6847.

(3) Method 524.2 may be found in "Methods for the Determination of Organic Compounds in Drinking Water–Supplement II", EPA-600/R-92-129, August 1992, available from NTIS, PB92-207703, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, (800) 553-6847.

These methods are available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206. *(Water Pollution Control Board; 327 IAC 8-2-5.3; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1011; filed Aug 24, 1994, 8:15 a.m.: 18 IR 37; errata filed Oct 11, 1994, 2:45 p.m.: 18 IR 531; filed Aug 25, 1997, 8:00 a.m.: 21 IR 49; errata filed Dec 10, 1997, 3:45 p.m.: 21 IR 1348; filed Jul 23, 2001, 1:02 p.m.: 24 IR 3958; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1086)*

SECTION 4. 327 IAC 8-2-8.5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-8.5 Requirement for filtration and disinfection

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 8.5. (a) Effective June 29, 1993, a public water system that uses a surface water source must provide filtration in accordance with this section.

(b) A public water system that uses a ground water source under the direct influence of surface water shall provide filtration in accordance with this section beginning eighteen (18) months after the commissioner determines that it is under the direct influence of surface water from the date specified in section 8.2 of this rule.

(c) A public water system that uses a surface water source or a ground water source under the direct influence of surface water must provide treatment consisting of both disinfection, as specified in section 8.6 of this rule and filtration treatment. Filtration treatment shall be done by one (1) of the following techniques, and the turbidity level of representative samples of a system's filtered water, regardless of filtration technique used, shall at no time exceed five (5) nephelometric turbidity units (NTU) in any given sample, measured as specified in section 8.7 of this rule:

(1) For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's filtered water must be less than or equal to one-half (0.5) NTU in at least ninety-five percent (95%) of the total number of measurements taken each month, measured as specified in sections 8.7(4) and 8.8(b) of this rule, except that if the commissioner determines that the system is capable of achieving at least ninety-nine and nine-tenths percent (99.9%) removal and/or inactivation of Giardia lamblia cysts at some turbidity level higher than one-half (0.5) NTU in at least ninety-five percent (95%) of the total number of measurements taken each month, the commissioner may substitute this higher turbidity limit for that system. However, in no case may the commissioner approve a turbidity limit that allows more than one (1) NTU in more than five percent (5%) of the samples taken each month, measured as specified in sections 8.7(4) and 8.8(b) of this rule. **Upon the effective date of this rule, systems serving a population of at least ten thousand (10,000) individuals shall meet the turbidity requirements in 327 IAC 8-2.6-3.**

(2) For systems using slow sand filtration, the turbidity level of representative samples of a system's filtered water must be less than or equal to one (1) NTU in at least ninety-five percent (95%) of the measurements taken each month, measured as specified in sections 8.7(4) and 8.8(b) of this rule, except where the commissioner determines that there is no significant interference with disinfection at a higher turbidity level.

(3) For systems using diatomaceous earth filtration, the turbidity level of representative samples of a public water system's filtered water must be less than or equal to one (1) NTU in at least ninety-five percent (95%) of the measurements taken each month, measured as specified in sections 8.7(4) and 8.8(b) of this rule.

(4) A public water system may use a filtration technology not listed in this subsection if it demonstrates to the commissioner, using pilot plant studies or other means, that the alternative filtration technology, in combination with disin-

fection treatment that meets the requirements of section 8.6 of this rule, consistently achieves ninety-nine and nine-tenths percent (99.9%) removal and/or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) removal and/or inactivation of viruses. For a system that makes this demonstration, the requirements of this subsection apply. **Upon the effective date of this rule, systems serving a population of at least ten thousand (10,000) individuals shall meet the requirements for other filtration technologies in 327 IAC 8-2.6-3.**

(d) During plant operation, each public water system subject to this section shall be operated only by personnel who have been certified by the commissioner under 327 IAC 8-11 through 327 IAC 8-12.

(e) In addition to complying with requirements in this section, systems serving a population of at least ten thousand (10,000) individuals shall also comply with the requirements in 327 IAC 8-2.6-1. *(Water Pollution Control Board; 327 IAC 8-2-8.5; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1024; errata filed Apr 5, 1991, 3:30 p.m.: 14 IR 1626; errata, 14 IR 1730; filed Apr 12, 1993, 11:00 a.m.: 16 IR 2160)*

SECTION 5. 327 IAC 8-2-13, AS AMENDED AT 25 IR 1096, SECTION 11, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-13 Reporting requirements; test results and failure to comply

Authority: IC 13-13-5; IC 13-14-8-7; IC 13-14-9; IC 13-18-3; IC 13-18-16
Affected: IC 13-18

Sec. 13. (a) Except where a shorter period is specified in this rule, the supplier of water or the certified laboratory, **as certified by the commissioner,** provided the supplier of water has granted permission in writing to the laboratory using forms provided by the commissioner, and that permission is on file with the commissioner, shall report to the commissioner the results of any test measurement or analysis required by this rule within:

(1) the first ten (10) days following the month in which the result is received; or

(2) the first ten (10) days following the end of the required monitoring period as stipulated by the commissioner, whichever is shorter.

(b) The supplier of water or the certified laboratory, **as certified by the commissioner,** provided the supplier of water has granted permission in writing to the laboratory using forms provided by the commissioner, and that permission is on file with the commissioner, shall report to the commissioner within forty-eight (48) hours of completion of laboratory analysis the failure to comply with any MCL and any other requirement set forth in this rule by telephone or the methods specified in subsection (e). If notification is made by telephone, the results must follow using one (1) of the methods specified in subsection (e) within forty-eight (48) hours of the telephone notification.

(c) The supplier of water or the certified laboratory, **as certified by the commissioner,** provided the supplier of water has granted permission in writing to the laboratory using forms provided by the commissioner, and that permission is on file with the commissioner, shall report to the commissioner within (48) hours of completion of laboratory analysis any positive total coliform results by telephone or the methods specified in subsection (e). If notification is made by telephone, the results must follow using one (1) of the methods specified in subsection (e) within forty-eight (48) hours of the telephone notification.

(d) The supplier of water, within ten (10) days of completing the public notification required by 327 IAC 8-2.1-7 through 327 IAC 8-2.1-16, for the initial public notice and any repeat notices, shall submit to the commissioner a certification that it has fully complied with the public notification regulations. The public water system must include with this certification a representative copy of each type of notice distributed, published, posted, or made available to the persons served by the system or to the media.

(e) The submittal of the information required under this section shall be submitted in one (1) of the following manners:

(1) Mail.

(2) Facsimile.

(3) Electronic mail.

(4) Hand delivery.

(5) Other means determined by the commissioner to provide the degree of confidentiality, reliability, convenience, and security appropriate to the information to be submitted.

(Water Pollution Control Board; 327 IAC 8-2-13; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1030; filed Jul 23, 2001, 1:02 p.m.: 24 IR 3974; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1096; errata filed Feb 22, 2002, 2:01 p.m.: 25 IR 2254)

SECTION 6. 327 IAC 8-2-30 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-30 Maximum contaminant level goals; organic compounds

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 30. (a) MCLGs are zero (0) for the following organic compounds:

(1) Benzene.

(2) Vinyl chloride.

(3) Carbon tetrachloride.

(4) 1,2-dichloroethane.

(5) Trichloroethylene.

(6) Acrylamide.

(7) Alachlor.
(8) Chlordane.
(9) Dibromochloropropane.
(10) 1,2-dichloropropane.
(11) Epichlorohydrin.
(12) Ethylene dibromide.
(13) Heptachlor.
(14) Heptachlor epoxide.
(15) Pentachlorophenol.
(16) Polychlorinated biphenyls (PCBs).
(17) Tetrachloroethylene.
(18) Toxaphene.
(19) Benzo[a]pyrene.
(20) Dichloromethane.
(21) Di(2-ethylhexyl)phthalate.
(22) Hexachlorobenzene.
(23) 2,3,7,8-TCDD (dioxin).

(b) MCLGs for the following organic compounds are as follows:

Contaminant	MCLG in Milligrams Per Liter
1,1-dichloroethylene	0.007
1,1,1-trichloroethane	0.20
para-dichlorobenzene	0.075
Aldicarb	0.001
Aldicarb sulfoxide	0.001
Aldicarb sulfone	0.001
Atrazine	0.003
Carbofuran	0.04
Ortho-dichlorobenzene	0.6
cis-1,2-dichloroethylene	0.07
trans-1,2-dichloroethylene	0.1
2,4-D	0.07
Ethylbenzene	0.7
Lindane	0.0002
Methoxychlor	0.04
Monochlorobenzene	0.1
Styrene	0.1
Toluene	1
2,4,5-TP	0.05
Xylenes	10
Dalapon	0.2
Di(2-ethylhexyl)adipate	0.4
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Glyphosate	0.7
Hexachlorocyclopentadiene	0.05
Oxamyl (vydate)	0.2
Picloram	0.5
Simazine	0.004
1,2,4-trichlorobenzene	0.07
1,1,2-trichloroethane	0.003

(c) MCLGs for the following disinfection byproducts are as follows:

Disinfection Byproduct	MCLG (mg/L)
Bromodichloromethane	**0**
Bromoform	**0**
Bromate	**0**
Dichloroacetic acid	**0**
Trichloroacetic acid	**0.3**
Chlorite	**0.8**
Dibromochloromethane	**0.06**

(Water Pollution Control Board; 327 IAC 8-2-30; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1047; filed Aug 24, 1994, 8:15 a.m.: 18 IR 66)

SECTION 7. 327 IAC 8-2-31 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-31 Maximum contaminant level goals; microbiological contaminants

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 31. Maximum contaminant level goals (MCLGs) are zero (0) for the following microbiological contaminants:
(1) Giardia lamblia.
(2) Viruses.
(3) Legionella.
(4) Total coliforms (including fecal coliforms and Escherichia coli).
(5) Cryptosporidium.

(Water Pollution Control Board; 327 IAC 8-2-31; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1047)

SECTION 8. 327 IAC 8-2-48 IS ADDED TO READ AS FOLLOWS:

327 IAC 8-2-48 Monitoring of consecutive public water systems

Authority: IC 13-13-5-1; IC 13-14-8-7; IC 13-14-9; IC 13-18-3-2; IC 13-18-16-7
Affected: IC 13-11-2; IC 13-18-1; IC 13-18-2

Sec. 48. When a public water system supplies water to one (1) or more other public water systems, the commissioner may modify the monitoring requirements imposed by this article to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modified monitoring shall be conducted pursuant to a schedule specified by the commissioner and concurred by the administrator of the U.S. EPA. *(Water Pollution Control Board; 327 IAC 8-2-48)*

SECTION 9. 327 IAC 8-2.1-3, AS AMENDED AT 25 IR 1098, SECTION 14, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-3 Content of the reports

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 3. (a) A community water system shall provide to its customers an annual report that contains the information specified in this section and section 4 of this rule.

(b) The report must contain information on the source of the water delivered, including the following:

(1) The source or sources of water delivered by the community water system by including information on:

(A) the type of water, such as surface water or ground water; and

(B) the commonly used name, if any, and location of the body or bodies of water.

(2) If a source water assessment has been completed, the report must notify the consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the commissioner, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the commissioner or written by the operator.

(c) The report must include the following definitions:

(1) "Maximum contaminant level goal" or "MCLG" means the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(2) "Maximum contaminant level" or "MCL" means the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(d) A report that contains data on contaminants that the department or EPA regulates and uses any of the following terms must include definitions, as applicable, of the terms used:

(1) "Treatment technique" means a required process intended to reduce the level of a contaminant in drinking water.

(2) "Action level" means the concentration of a contaminant that, if exceeded, triggers treatment or other requirements that a water system shall follow.

(e) A report must include the information specified in this subsection for the following contaminants subject to mandatory monitoring, other than Cryptosporidium:

(1) Contaminants subject to an MCL, action level, or treatment technique, hereafter referred to as regulated contaminants.

(2) Disinfection byproducts or microbial contaminants for which monitoring is required by 40 CFR 141.142* and 40 CFR 141.143*, except as provided in subsection (e)(1), and that are detected in the finished water.

(3) The data relating to these contaminants must be displayed in one (1) table or in several adjacent tables. Any additional monitoring results that a community water system chooses to include in its report must be displayed separately.

(4) The data must be derived from data collected to comply with EPA and department monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter, except the following:

(A) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table or tables must include the date and results of the most recent sampling, and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five (5) years need be included.

(B) Results of monitoring in compliance with 40 CFR 141.142* and 40 CFR 141.143* need only be included for five (5) years from the date of the last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(5) For detected regulated contaminants listed in section 6(a) of this rule, the table or tables must contain the following information:

(A) The MCL for that contaminant expressed as a number equal to or greater than one and zero tenths (1.0), as listed in section 6(a) of this rule.

(B) The MCLG for that contaminant expressed in the same units as the MCL.

(C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report shall include the definitions for treatment technique or action level, or both, as appropriate, specified in subsection (c)(4).

(D) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with this rule and the range of detected levels as follows:

(i) When compliance with the MCL is determined annually or less frequently, the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point, the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points, the average and range of detection expressed in the same units as the MCL.

(E) When turbidity is reported pursuant to 327 IAC 8-2-8.8 **or 327 IAC 8-2.6-3**, the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in 327 IAC 8-2-8.8 **or 327 IAC 8-2.6-3** for the filtration technology being used. The report must include an explanation of the reasons for measuring turbidity.

(F) For lead and copper, the ninetieth percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(G) For total coliform, the highest monthly:

(i) number of positive samples for systems collecting fewer than forty (40) samples per month; or

(ii) percentage of positive samples for systems collecting at least forty (40) samples per month.

(H) For fecal coliform, the total number of positive samples.

(I) The likely source or sources of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and must be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one (1) or more of the typical sources for that contaminant listed in section 6(b) of this rule that are most applicable to the system.

(6) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources:

(A) the table must contain a separate column for each service area and the report must identify each separate distribution system; or

(B) the system may produce separate reports tailored to include data for each service area.

(7) The table must clearly identify any data indicating violations of MCLs or treatment techniques, and the report must contain a clear and readily understandable explanation of the violation, including the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system shall use the relevant language of section 6(c) of this rule.

(f) Each report must contain the following information on Cryptosporidium, radon, and other contaminants:

(1) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of 40 CFR 141.143*, that indicates Cryptosporidium may be present in the source water or the finished water, the report must include:

(A) a summary of the results of the monitoring; and

(B) an explanation of the significance of the results.

(2) If the system has performed any monitoring for radon that indicates radon may be present in the finished water, the report must include:

(A) the results of the monitoring; and

(B) an explanation of the significance of the results.

(3) If the system has performed additional monitoring that indicates the presence of other contaminants in the finished water, the commissioner strongly encourages systems to report any results that may indicate a health concern. To determine if results may indicate a health concern, the commissioner recommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation (NPDWR) or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline at (800) 426-4791. The commissioner and EPA consider levels detected above a proposed federal or state MCL or health advisory level to indicate possible health concerns. For such contaminants, the commissioner recommends that the report includes:

(A) the results of the monitoring; and

(B) an explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(g) In addition to the requirements of subsection (d)(5), the report must note any violation of a requirement listed in this subsection that occurred during the year covered by the report, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation. Violations of the following requirements must be included:

(1) Monitoring and reporting of compliance data.

(2) Filtration and disinfection prescribed by 327 IAC 8-2-8.5 and 327 IAC 8-2-8.6. For systems that have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes that constitutes a violation, the report must include the following language as part of the explanation of potential health effects, "inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.".

(3) Lead and copper control requirements prescribed by 327 IAC 8-2-36 through 327 IAC 8-2-47. For systems that fail to take one (1) or more actions prescribed by 327 IAC 8-2-36(d) or 327 IAC 8-2-40 through 327 IAC 8-2-43, the report must include the applicable language from section 6(c) of this rule for lead or copper, or both.

(4) Treatment techniques for acrylamide and epichlorohydrin prescribed by 327 IAC 8-2-35. For systems that violate 327 IAC 8-2-35, the report shall include the relevant language from section 6(c) of this rule.

(5) Record keeping of compliance data.

(6) Special monitoring requirements prescribed by 327 IAC 8-2-21.

(7) Violation of the terms of an administrative or judicial order.

(h) The following additional information must be contained in the report:

(1) A brief explanation regarding contaminants that may reasonably be expected to be found in drinking water, including bottled water. This explanation may include the language in clauses (A) through (C), or systems may use their own comparable language. The report must also include the language of clause (D). The language is as follows:

(A) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals, and in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(B) Contaminants that may be present in source water include the following:

(i) Microbial contaminants, such as viruses and bacteria, that may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(ii) Inorganic contaminants, such as salts and metals, that can be naturally-occurring or result from urban stormwater run-off, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(iii) Pesticides and herbicides, that may come from a variety of sources, such as agriculture, urban stormwater run-off, and residential uses.

(iv) Organic chemical contaminants, including synthetic and volatile organic chemicals, that are byproducts of industrial processes and petroleum production, and can also come from gas stations, urban stormwater run-off, and septic systems.

(v) Radioactive contaminants, that can be naturally-occurring or be the result of oil and gas production and mining activities.

(C) In order to ensure that tap water is safe to drink, the department and EPA prescribe regulations that limit the amount of certain contaminants in water provided by public water systems. Federal Drug Administration (FDA) regulations establish limits for contaminants in bottled water that must provide the same protection for public health.

(D) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that the water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline at (800) 426-4791.

(2) The telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(3) In communities with a large proportion of non-English speaking residents, in which twenty percent (20%) or more of the residents speak the same language other than English, the report must contain information in the appropriate language or languages regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(4) The report must include information about opportunities for public participation in decisions that may affect the quality of water. This information may include, but is not limited to, the time and place of regularly scheduled board meetings.

(5) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

*The Code of Federal Regulations (CFR) citations are incorporated by reference into this rule and are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 or from the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, Twelfth Floor, Room 1255, 100 North Senate Avenue, Indianapolis, Indiana 46206. *(Water Pollution Control Board; 327 IAC 8-2.1-3; filed Mar 22, 2000, 3:23 p.m.: 23 IR 1899; filed Jul 23, 2001, 1:02 p.m.: 24 IR 3982; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1098)*

SECTION 10. 327 IAC 8-2.1-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-4 Required additional health information

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 4. (a) A report must prominently display the language: "Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons, such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. U.S. Environmental Protection Agency and Centers for Disease Control guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline at (800) 426-4791.".

(b) If a system detects arsenic at levels above twenty-five (25) micrograms per liter, but below the MCL, it shall do one (1) of the following:

(1) Include in its report the language: "The U.S. Environmental Protection Agency is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally-occurring mineral known to cause cancer in humans at high concentrations.".

(2) Write its own educational statement, if such statement is written in consultation with the commissioner, and include that statement in the report.

(c) If a system detects nitrate at levels above five (5) milligrams per liter, but below the MCL, it shall do one (1) of the following:

(1) Include in its report the language: "Nitrate in drinking water at levels above ten (10) parts per million is a health risk for infants of less than six (6) months of age. High nitrate levels in drinking water can cause blue-baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant, seek advice from your health care provider.".

(2) Write its own educational statement, if such statement is written in consultation with the commissioner, and include that statement in the report.

(d) If a system detects lead above the action level in more than five percent (5%), and up to and including ten percent (10%), of homes sampled, it shall do one (1) of the following:

(1) Include in its report the language: "Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for thirty (30) seconds to two (2) minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline at (800) 426-4791.".

(2) Write its own educational statement, if such statement is written in consultation with the commissioner, and include that statement in the report.

(e) If a system detects total trihalomethanes above eight-hundredths (0.08) milligrams per liter, but below the MCL in 327 IAC 8-2-5(a), as an annual average, monitored and calculated under the provisions of 327 IAC 8-2-5.3, it shall include in its report the health effects language in ~~section 6(c)(5)(S)~~ **table 17(G)(74) contained in section 17** of this rule. *(Water Pollution Control Board; 327 IAC 8-2.1-4; filed Mar 22, 2000, 3:23 p.m.: 23 IR 1902)*

SECTION 11. 327 IAC 8-2.1-6, AS AMENDED T 25 IR 1100, SECTION 15, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-6 Other required information

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 6. (a) In order to convert MCLs to numbers greater than or equal to one and zero-tenths (1.0) for the required table referenced in section 3 of this rule, a community water system shall use the following table:

Table 6-1: Converting MCL Compliance Values for Consumer Confidence Reports

Contaminant	MCL in Compliance Units (mg/l)	multiply by...	MCL in CCR Units	MCLG in CCR Units
Microbiological contaminants				
1. Total coliform bacteria			5% of monthly samples are positive (systems that collect forty (40) or more samples per month); one (1) positive monthly sample (systems that collect fewer than forty (40) samples per month).	0
2. Fecal coliform and E. coli			A routine sample and a repeat sample are total coliform positive, and one (1) is also fecal coliform or E. coli positive.	0
3. Total organic carbon	**TT**		**TT**	**n/a**
~~3.~~ **4.** Turbidity			TT (NTU)	n/a
Radioactive contaminants				
~~4.~~ **5.** Beta/photon emitters	4 mrem/year		4 mrem/year	0
~~5.~~ **6.** Alpha emitters	15 pCi/l		15 pCi/l	0
~~6.~~ **7.** Combined radium	5 pCi/l		5 pCi/l	0
Inorganic contaminants				
~~7.~~ **8.** Antimony	0.006	1,000	6 ppb	6
~~8.~~ **9.** Arsenic	0.05	1,000	50 ppb	n/a
~~9.~~ **10.** Asbestos	7 MFL		7 MFL	7
~~10.~~ **11.** Barium	2		2 ppm	2
~~11.~~ **12.** Beryllium	0.004	1,000	4 ppb	4

~~12.~~ **13.** Cadmium	0.005	1,000	5 ppb	5
~~13.~~ **14.** Chromium	0.1	1,000	100 ppb	100
~~14.~~ **15.** Copper	AL = 1.3		AL = 1.3 ppm	1.3
~~15.~~ **16.** Cyanide	0.2	1,000	200 ppb	200
~~16.~~ **17.** Fluoride	4		4 ppm	4
~~17.~~ **18.** Lead	AL = 0.015	1,000	AL = 15 ppb	0
~~18.~~ **19.** Mercury (inorganic)	0.002	1,000	2 ppb	2
~~19.~~ **20.** Nitrate (as nitrogen)	10		10 ppm	10
~~20.~~ **21.** Nitrite (as nitrogen)	1		1 ppm	1
~~21.~~ **22.** Selenium	0.05	1,000	50 ppb	50
~~22~~. **23.** Thallium	0.002	1,000	2 ppb	0.5
Synthetic organic contaminants including pesticides and herbicides				
~~23.~~ **24.** 2,4-D	0.07	1,000	70 ppb	70
~~24.~~ **25.** 2,4,5-TP (silvex)	0.05	1,000	50 ppb	50
~~25.~~ **26.** Acrylamide			TT	0
~~26.~~ **27.** Alachlor	0.002	1,000	2 ppb	0
~~27.~~ **28.** Atrazine	0.003	1,000	3 ppb	3
~~28.~~ **29.** Benzo(a)pyrene (PAH)	0.0002	1,000,000	200 ppt	0
~~29.~~ **30.** Carbofuran	0.04	1,000	40 ppb	40
~~30.~~ **31.** Chlordane	0.002	1,000	2 ppb	0
~~31.~~ **32.** Dalapon	0.2	1,000	200 ppb	200
~~32.~~ **33.** Di(2-ethylhexyl)adipate	.4	1,000	400 ppb	400
~~33.~~ **34.** Di(2-ethylhexyl)phthalate	0.006	1,000	6 ppb	0
~~34.~~ **35.** Dibromochloropropane	0.0002	1,000,000	200 ppt	0
~~35.~~ **36.** Dinoseb	0.007	1,000	7 ppb	7
~~36.~~ **37.** Diquat	0.02	1,000	20 ppb	20
~~37.~~ **38.** Dioxin (2,3,7,8-TCDD)	0.00000003	1,000,000,000	30 ppq	0
~~38.~~ **39.** Endothall	0.1	1,000	100 ppb	100
~~39.~~ **40.** Endrin	0.002	1,000	2 ppb	2
~~40.~~ **41.** Epichlorohydrin			TT	0
~~41.~~ **42.** Ethylene dibromide	0.00005	1,000,000	50 ppt	0
~~42.~~ **43.** Glyphosate	0.7	1,000	700 ppb	700
~~43.~~ **44.** Heptachlor	0.0004	1,000,000	400 ppt	0
~~44.~~ **45.** Heptachlor epoxide	0.0002	1,000,000	200 ppt	0
~~45.~~ **46.** Hexachlorobenzene	0.001	1,000	1 ppb	0
~~46.~~ **47.** Hexachlorocyclopentadiene	0.05	1,000	50 ppb	50
~~47.~~ **48.** Lindane	0.0002	1,000	200 ppt	200
~~48.~~ **49.** Methoxychlor	0.04	1,000	40 ppb	40
~~49.~~ **50.** Oxamyl (vydate)	0.2	1,000	200 ppb	200
~~50.~~ **51.** PCBs (polychlorinated biphenyls)	0.0005	1,000,000	500 ppt	0
~~51.~~ **52.** Pentachlorophenol	0.001	1,000	1 ppb	0
~~52.~~ **53.** Picloram	0.5	1,000	500 ppb	500
~~53.~~ **54.** Simazine	0.004	1,000	4 ppb	4
~~54.~~ **55.** Toxaphene	0.003	1,000	3 ppb	0
Volatile organic contaminants				
~~55.~~ **56.** Benzene	0.005	1,000	5 ppb	0
57. Bromate	**.010**	**1,000**	**10 ppb**	**0**
~~56.~~ **58.** Carbon tetrachloride	0.005	1,000	5 ppb	0
59. Chloramines	**MRDL = 4**		**MRDL = 4 ppm**	**MRDLG = 4**
60. Chlorine	**MRDL = 4**		**MRDL = 4 ppm**	**MRDLG = 4**
61. Chlorite	**1**		**1 ppm**	**.8**
62. Chloride dioxide	**MRDL = .8**	**1,000**	**MRDL = 800 ppb**	**MRDLG = 800**

~~57.~~ **63.** Chlorobenzene	0.1	1,000	100 ppb	100
~~58.~~ **64.** o-Dichlorobenzene	0.6	1,000	600 ppb	600
~~59.~~ **65.** p-Dichlorobenzene	0.075	1,000	75 ppb	75
~~60.~~ **66.** 1,2-Dichloroethane	0.005	1,000	5 ppb	0
~~61.~~ **67.**1,1-Dichloroethylene	0.007	1,000	7 ppb	7
~~62.~~ **68.** cis-1,2-Dichloroethylene	0.07	1,000	70 ppb	70
~~63.~~ **69.** trans-1,2-Dichloroethylene	0.1	1,000	100 ppb	100
~~64.~~ **70.** Dichloromethane	0.005	1,000	5 ppb	0
~~65.~~ **71.** 1,2-Dichloropropane	0.005	1,000	5 ppb	0
~~66.~~ **72.** Ethylbenzene	0.7	1,000	700 ppb	700
73. Haloacetic acids (HAA)	**.060**	**1,000**	**60 ppb**	**n/a**
~~67.~~ **74.** Styrene	0.1	1,000	100 ppb	100
~~68.~~ **75.** Tetrachloroethylene	0.005	1,000	5 ppb	0
~~69.~~ **76.** 1,2,4-Trichlorobenzene	0.07	1,000	70 ppb	70
~~70.~~ **77.** 1,1,1-Trichloroethane	0.2	1,000	200 ppb	200
~~71.~~ **78.** 1,1,2-Trichloroethane	0.005	1,000	5 ppb	3
~~72.~~ **79.** Trichloroethylene	0.005	1,000	5 ppb	0
~~73.~~ **80.** TTHMs (total trihalomethanes)	0.1	1,000	100 ppb	n/a
~~74.~~ **81.** Toluene	1		1 ppm	1
~~75.~~ **82.** Vinyl chloride	0.002	1,000	2 ppb	0
~~76.~~ **83.** Xylenes	10		10 ppm	10

Key:

AL = Action level.

MCL = Maximum contaminant level.

MCLG = Maximum contaminant level goal.

MFL = Million fibers per liter.

mrem/year = Millirems per year (a measure of radiation absorbed by the body).

NTU = Nephelometric turbidity units.

pCi/l = Picocuries per liter (a measure of radioactivity).

ppm = Parts per million, or milligrams per liter (mg/l).

ppb = Parts per billion, or micrograms per liter (µg/l).

ppt = Parts per trillion, or nanograms per liter (ng/l).

ppq = Parts per quadrillion, or picograms per liter (pg/l).

TT = Treatment technique.

(b) In order to show potential sources of contamination for the table required by section 3 of this rule, a community water system shall use the following table:

Table 6-2: Regulated Contaminants

Contaminant (units)	MCLG	MCL	Major Sources in Drinking Water
Microbiological contaminants			
1. Total coliform bacteria	0	5% of monthly samples are positive (systems that collect forty (40) or more samples per month); one (1) positive monthly sample (systems that collect fewer than forty (40) samples per month).	Naturally present in the environment.

2. Fecal coliform and E. coli	0	A routine sample and a repeat sample are total coliform positive, and one (1) is also fecal coliform or E. coli positive.	Human and animal fecal waste.
3. Total organic carbon	**n/a**	**TT**	**Naturally present in the environment.**
~~3.~~ **4.** Turbidity	n/a	TT	Soil run-off.
Radioactive contaminants			
~~4.~~ **5.** Beta/photon emitters (mrem/year)	0	4	Decay of natural and manmade deposits.
~~5.~~ **6.** Alpha emitters (pCi/l)	0	15	Erosion of natural deposits.
~~6.~~ **7.** Combined radium (pCi/l)	0	5	Erosion of natural deposits.
Inorganic contaminants			
~~7.~~ **8.** Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.
~~8.~~ **9.** Arsenic (ppb)	n/a	50	Erosion of natural deposits; run-off from orchards; run-off from glass and electronics production wastes.
~~9.~~ **10.** Asbestos (MFL)	7	7	Decay of asbestos cement water mains; erosion of natural deposits.
~~10.~~ **11.** Barium (ppm)	2	2	Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits.
~~11.~~ **12.** Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries.
~~12.~~**13.** Cadmium (ppb)	5	5	Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; run-off from waste batteries and paints.
~~13.~~ **14.** Chromium (ppb)	100	100	Discharge from steel and pulp mills; erosion of natural deposits.
~~14.~~ **15.** Copper (ppm)	1.3	AL = 1.3	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives.
~~15.~~ **16.** Cyanide (ppb)	200	200	Discharge from steel/metal factories; discharge from plastic and fertilizer factories.
~~16.~~ **17.** Fluoride (ppm)	4	4	Erosion of natural deposits; water additive that promotes strong teeth; discharge from fertilizer and aluminum factories.
~~17.~~ **18.** Lead (ppb)	0	AL = 15	Corrosion of household plumbing systems; erosion of natural deposits.
~~18.~~ **19.** Mercury (inorganic) (ppb)	2	2	Erosion of natural deposits; discharge from refineries and factories; run-off from landfills; run-off from cropland.
~~19.~~ **20.** Nitrate (as nitrogen) (ppm)	10	10	Run-off from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits.

~~20.~~ **21.** Nitrite (as nitrogen) (ppm)	1	1	Run-off from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits.
~~21.~~ **22.** Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines.
~~22.~~ **23.** Thallium (ppb)	0.5	2	Leaching from ore-processing sites; discharge from electronics, glass, and drug factories.
Synthetic organic contaminants, including pesticides and herbicides			
~~23.~~ **24.** 2,4-D (ppb)	70	70	Run-off from herbicide used on row crops.
~~24.~~ **25.** 2,4,5-TP (Silvex) (ppb)	50	50	Residue of banned herbicide.
~~25.~~ **26.** Acrylamide	0	TT	Added to water during sewage/wastewater treatment.
~~26.~~ **27.** Alachlor (ppb)	0	2	Run-off from herbicide used on row crops.
~~27.~~ **28.** Atrazine (ppb)	3	3	Run-off from herbicide used on row crops.
~~28.~~ **29.** Benzo(a)pyrene (PAH) (ppt)	0	200	Leaching from linings of water storage tanks and distribution lines.
~~29.~~ **30.** Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa.
~~30.~~ **31.** Chlordane (ppb)	0	2	Residue of banned termiticide.
~~31.~~ **32.** Dalapon (ppb)	200	200	Run-off from herbicide used on rights-of-way.
~~32.~~ **33.** Di(2-ethylhexyl)adipate (ppb)	400	400	Discharge from chemical factories.
~~33.~~ **34.** Di(2-ethylhexyl)phthalate (ppb)	0	6	Discharge from rubber and chemical factories.
~~34.~~ **35.** Dibromochloropropane (ppt)	0	200	Run-off/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
~~35.~~ **36.** Dinoseb (ppb)	7	7	Run-off from herbicide used on soybeans and vegetables.
~~36.~~ **37.** Diquat (ppb)	20	20	Run-off from herbicide use.
~~37.~~ **38.** Dioxin (2,3,7,8-TCDD) (ppq)	0	30	Emissions from waste incineration and other combustion; discharge from chemical factories.
~~38.~~ **39.** Endothall (ppb)	100	100	Run-off from herbicide use.
~~39.~~ **40.** Endrin (ppb)	2	2	Residue of banned insecticide.
~~40.~~ **41.** Epichlorohydrin	0	TT	Discharge from industrial chemical factories; an impurity of same water treatment chemicals.
~~41.~~ **42.** Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries.
~~42.~~ **43.** Glyphosate (ppb)	700	700	Run-off from herbicide use.
~~43.~~ **44.** Heptachlor (ppt)	0	400	Residue of banned termiticide.
~~44.~~ **45.** Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor.
~~45.~~ **46.** Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories.
~~46.~~ **47.** Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories.
~~47.~~ **48.** Lindane (ppt)	200	200	Run-off/leaching from insecticide used on cattle, lumber, gardens.

~~48.~~ **49.** Methoxychlor (ppb)	40	40	Run-off/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.
~~49.~~ **50.** Oxamyl (vydate) (ppb)	200	200	Run-off/leaching from insecticide used on apples, potatoes, and tomatoes.
~~50.~~ **51.** PCBs (polychlorinated biphenyls) (ppt)	0	500	Run-off from landfills; discharge of waste chemicals.
~~51.~~ **52.** Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories.
~~52.~~ **53.** Picloram (ppb)	500	500	Herbicide run-off.
~~53.~~ **54.** Simazine (ppb)	4	4	Herbicide run-off.
~~54.~~ **55.** Toxaphene (ppb)	0	3	Run-off/leaching from insecticide used on cotton and cattle.
Volatile organic contaminants			
~~55.~~ **56.** Benzene (ppb)	0	5	Discharge from factories; leaching from gas storage tanks and landfills.
57. Bromate (ppb)	**0**	**10**	**Byproduct of drinking water chlorination.**
~~56.~~**58.** Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities.
59. Chloramines (ppm)	**MRDLG = 4**	**MRDL = 4**	**Water additive used to control microbes.**
60. Chlorine (ppm)	**MRDLG = 4**	**MRDL = 4**	**Water additive used to control microbes.**
61. Chlorite (ppm)	**.8**	**1**	**Byproduct of drinking water chlorination.**
62. Chloride dioxide (ppb)	**MRDLG = 800**	**MRDL = 800**	**Water additive used to control microbes.**
~~57.~~ **63.** Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories.
~~58.~~ **64.** o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories.
~~59.~~ **65.** p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories.
~~60.~~ **66.** 1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories.
~~61.~~ **67.** 1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories.
~~62.~~ **68.** cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories.
~~63.~~ **69.** trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories.
~~64.~~ **70.** Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories.
~~65.~~ **71.** 1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories.
~~66.~~ **72.** Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries.
73. Haloacetic acids (HAA) (ppb)	**n/a**	**60**	**Byproduct of drinking water disinfection.**
~~67.~~ **74.** Styrene (ppb)	100	100	Discharge from rubber and plastic factories; leaching from landfills.

~~68.~~ **75.** Tetrachloroethylene (ppb)	0	5	Discharge from factories and dry cleaners.
~~69.~~ **76.** 1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories.
~~70.~~ **77.** 1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories.
~~71.~~ **78.** 1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories.
~~72.~~ **79.** Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories.
~~73.~~ **80.** TTHMs (total trihalomethanes) (ppb)	n/a	100	Byproduct of drinking water chlorination.
~~74.~~ **81.** Toluene (ppm)	1	1	Discharge from petroleum factories.
~~75.~~ **82.** Vinyl chloride (ppb)	0	2	Leaching from PVC piping; discharge from plastics factories.
~~76.~~ **83.** Xylenes (ppm)	10	10	Discharge from petroleum factories; discharge from chemical factories.

Key:
AL = Action level.
MCL = Maximum contaminant level.
MCLG = Maximum contaminant level goal.
MFL = Million fibers per liter.
mrem/year = millirems per year (a measure of radiation absorbed by the body).
NTU = Nephelometric turbidity units.
pCi/l = Picocuries per liter (a measure of radioactivity).
ppm = Parts per million, or milligrams per liter (mg/l).
ppb = Parts per billion, or micrograms per liter (µg/l).
ppt = Parts per trillion, or nanograms per liter (ng/l).
ppq = Parts per quadrillion, or picograms per liter (pg/l).
TT = Treatment technique.

(c) The language in section 17 of this rule shall be used if there is a violation referenced in section 3 of this rule and health effects language is required unless alternate language is listed in this subsection as follows:

(1) Fecal coliform/E. coli. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with animal or human wastes. Microbes in these wastes can cause short term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

(2) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Children may get mottled teeth.

(Water Pollution Control Board; 327 IAC 8-2.1-6; filed Mar 22, 2000, 3:23 p.m.: 23 IR 1903; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1100)

SECTION 12. 327 IAC 8-2.1-8, AS ADDED AT 25 IR 1110, SECTION 17, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-8 Tier 1 public notice; form, manner, and frequency of notice

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 8. (a) The following violations or situations require a Tier 1 public notice:

(1) Violation of the MCL for total coliforms when fecal coliform or E. coli are present in the water distribution system as specified in 327 IAC 8-2-7(b), or the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform as specified in 327 IAC 8-2-8.3.

(2) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in 327 IAC 8-2-4, or when the water system fails to take a confirmation sample within twenty-four (24) hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in 327 IAC 8-2-4.1(h)(2).

(3) Exceedance of the nitrate MCL by noncommunity water systems, where permitted to exceed the MCL by the commissioner under 327 IAC 8-2-4.

(4) Violation of the 327 IAC 8-2-8.5(c) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit as identified in section 16 of this rule, where the commissioner determines after consultation that a Tier 1 notice is required or where consultation does not take place within twenty-four (24) hours after the system learns of the violation.
(5) Occurrence of a waterborne disease outbreak, as defined in 327 IAC 8-2-1, or other waterborne emergency. This includes failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.
(6) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the commissioner either in its regulations or on a case-by-case basis.
(7) Violation of the MRDL for chlorine dioxide as defined in 327 IAC 8-2.5-3(a) and determined according to 327 IAC 8-2.5-5.

(b) Tier 1 public notice needs to be provided as follows:
(1) Provide a public notice as soon as practical but no later than twenty-four (24) hours after the system learns of the violation.
(2) Initiate consultation with the commissioner as soon as practical, but no later than twenty-four (24) hours after the public water system learns of the violation or situation, to determine additional public notice requirements.
(3) Comply with any additional public notification requirements that are established as a result of the consultation with the commissioner, including any repeat notices or direction on the duration of the posted notices. To reach all persons served, such requirements may include:
(A) timing;
(B) form;
(C) manner;
(D) frequency; and
(E) content of repeat notices and other actions designed.
(4) Public water systems must provide the notice within twenty-four (24) hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and nontransient users of the water system. In order to reach all persons served, water systems are to use, at a minimum, one (1) or more of the following forms of delivery:
(A) Appropriate broadcast media, such as:
(i) radio; or
(ii) television.
(B) Posting of the notice in conspicuous locations throughout the area served by the water system.
(C) Hand delivery of the notice to persons served by the water system.
(D) Another delivery method approved in writing by the commissioner.
(5) A community public water system shall give a copy of the most recent public notice to all new billing units or new hookups prior to or at the time service begins for any of the following outstanding violations:
(A) Any maximum contaminant level.
(B) Any maximum residual disinfectant level.
(C) Any treatment technique requirement.

(c) For violations of the MRDLs of disinfectants that may pose an acute risk to human health, a copy of the notice must be furnished to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than seventy-two (72) hours after the violation. *(Water Pollution Control Board; 327 IAC 8-2.1-8; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1110)*

SECTION 13. 327 IAC 8-2.1-16, AS ADDED AT 25 IR 1115, SECTION 25, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-16 Drinking water violations; other situations requiring public notice

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 16. (a) Drinking water violations and other situations that require public notice according to this rule are contained in the following table:

Table 16. Drinking Water Violations and Other Situations Requiring Public Notice

Contaminant	MCL/MRDL/TT/AL Violations		Monitoring and Testing Procedure Violations	
	Tier of Public Notice Required	Citation	Tier of Public Notice Required	Citation
I. Violations of Drinking Water Regulations:				
A. Microbiological Contaminants				
1. Total coliform	2	327 IAC 8-2-7(a)	3	327 IAC 8-2-8 327 IAC 8-2-8.1 327 IAC 8-2-8(f) 327 IAC 8-2-8.2 327 IAC 8-2-8.3

2. Fecal coliform/E. coli	1	327 IAC 8-2-7(b)	1, 3	327 IAC 8-2-8.3
3. Turbidity TT (resulting from a single exceedance of maximum allowable turbidity levels)	2,1	327 IAC 8-2-8.5(a) **327 IAC 8-2.6- 3(1)(B)** **327 IAC 8-2.6-3(2)**	3	327 IAC 8-2-8.8(b) **327 IAC 8-2.6-4**
4. Surface Water Treatment Rule violations, other than violations resulting from single exceedance of maximum allowable turbidity level (TT)	2	327 IAC 8-2-8.5 327 IAC 8-2-8.6	3	327 IAC 8-2-8.8
5. Interim Enhanced Surface Water Treatment Rule violations, other than violations resulting from single exceedance of maximum allowable turbidity level (TT)	**2**	**327 IAC 8-2.6-1** **327 IAC 8-2.6-2** **327 IAC 8-2.6-3**	**3**	**327 IAC 8-2.6-2** **327 IAC 8-2.6-4**
6. Filter Backwash Recycling Rule	**2**	**327 IAC 8-2.6-6**	**3**	**327 IAC 8-2.6-6**
B. Inorganic Chemicals (IOCs)				
1. Antimony	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
2. Arsenic	2	327 IAC 8-2-4(d) 327 IAC 8-2-4.1(l)(5)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(l)(3) 327 IAC 8-2-4.1(l)(4)
3. Asbestos (fibers >10 μm)	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(d)
4. Barium	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
5. Beryllium	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
6. Cadmium	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
7. Chromium (total)	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
8. Cyanide	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
9. Fluoride	2	327 IAC 8-2-4(c)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
10. Mercury (inorganic)	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
11. Nitrate	1	327 IAC 8-2-4(b)	1, 3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(f) 327 IAC 8-2-4.1(h)(2)
12. Nitrite	1	327 IAC 8-2-4(b)	1, 3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(g) 327 IAC 8-2-4.1(h)(2)
13. Total Nitrate and Nitrite	1	327 IAC 8-2-4(b)	3	327 IAC 8-2-4.1(c)
14. Selenium	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)
15. Thallium	2	327 IAC 8-2-4(d)	3	327 IAC 8-2-4.1(c) 327 IAC 8-2-4.1(e)

C. Lead and Copper Rule				
1. Lead and Copper Rule (TT)	2	327 IAC 8-2-36 327 IAC 8-2-40 327 IAC 8-2-41 327 IAC 8-2-42 327 IAC 8-2-43 327 IAC 8-2-44	3	327 IAC 8-2-37 327 IAC 8-2-38 327 IAC 8-2-39 327 IAC 8-2-45
D. Synthetic Organic Chemicals (SOCs)				
1. 2,4-D	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
2. 2,4,5-TP (Silvex)	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
3. Alachlor	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
4. Atrazine	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
5. Benzo(a)pyrene (PAHs)	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
6. Carbofuran	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
7. Chlordane	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
8. Dalapon	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
9. Di (2-ethylhexyl) adipate	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
10. Di (2-ethylhexyl) phthalate	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
11. Dibromochloropropane	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
12. Dinoseb	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
13. Dioxin (2,3,7,8-TCDD)	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
14. Diquat	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
15. Endothall	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
16. Endrin	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
17. Ethylene dibromide	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
18. Glyphosate	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
19. Heptachlor	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
20. Heptachlor epoxide	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
21. Hexachlorobenzene	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
22. Hexachlorocyclo-pentadiene	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
23. Lindane	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
24. Methoxychlor	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
25. Oxamyl (Vydate)	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
26. Pentachlorophenol	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
27. Picloram	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
28. Polychlorinated biphenyls (PCBs)	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
29. Simazine	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
30. Toxaphene	2	327 IAC 8-2-5(a)	3	327 IAC 8-2-5.1
E. Volatile Organic Chemicals (VOCs)				
1. Benzene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
2. Carbon tetrachloride	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
3. Chlorobenzene (monochlorobenzene)	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
4. o-Dichlorobenzene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
5. p-Dichlorobenzene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
6. 1,2-Dichloroethane	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
7. 1,1-Dichloroethylene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
8. cis-1,2-Dichloroethylene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
9. trans-1,2-Dichloroethylene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
10. Dichloromethane	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5

11. 1,2-Dichloropropane	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
12. Ethylbenzene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
13. Styrene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
14. Tetrachloroethylene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
15. Toluene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
16. 1,2,4-Trichlorobenzene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
17. 1,1,1-Trichloroethane	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
18. 1,1,2-Trichloroethane	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
19. Trichloroethylene	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
20. Vinyl chloride	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
21. Xylenes (total)	2	327 IAC 8-2-5.4(a)	3	327 IAC 8-2-5.5
F. Radioactive Contaminants				
1. Beta/photon emitters	2	327 IAC 8-2-10	3	327 IAC 8-2-10.2 327 IAC 8-2-10.2(b)
2. Alpha emitters	2	327 IAC 8-2-9(2)	3	327 IAC 8-2-10.2 327 IAC 8-2-10.2(a)
3. Combined radium (226 and 228)	2	327 IAC 8-2-9(1)	3	327 IAC 8-2-10.2 327 IAC 8-2-10.2(a)
G. Disinfection Byproducts (DBPs). Where disinfection is used in the treatment of drinking water, disinfectants combine with organic and inorganic matter present in water to form chemicals called disinfection byproducts (DBPs). EPA sets standards for controlling the levels of DBPs in drinking water.				
1. Total trihalomethanes (TTHMs)	2	327 IAC 8-2-5(a) and 327 IAC 8-2-5(c)	3	327 IAC 8-2-5.3
2. Haloacetic acids (HAA5)	**2**	**327 IAC 8-2.5-2(a)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(b)**
3. Bromate	**2**	**327 IAC 8-2.5-2(a)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(b)**
4. Chlorite	**2**	**327 IAC 8-2.5-2(a)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(b)**
5. Chlorine (MRDL)	**2**	**327 IAC 8-2.5-3(a)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(c)**
6. Chloramine (MRDL)	**2**	**327 IAC 8-2.5-3(a)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(c)**
7. Chlorine dioxide (MRDL), where any 2 consecutive daily samples at entrance to distribution system only are above MRDL	**2**	**327 IAC 8-2.5-3(a)**	**2, 3**	**327 IAC 8-2.5-6(a), 327 IAC 8-2.5-6(c), and 327 IAC 8-2.5-7(c)(2)**
8. Chlorine dioxide (MRDL), where samples in distribution system the next day are also above MRDL	**1**	**327 IAC 8-2.5-3(a)**	**1**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(c), 327 IAC 8-2.5-7(c)(2)**
9. Control of DBP precursors - TOC (TT)	**2**	**327 IAC 8-2.5-9(a) and 327 IAC 8-2.5-9(b)**	**3**	**327 IAC 8-2.5-6(a) and 327 IAC 8-2.5-6(d)**
10. Bench marking and disinfection profiling	**N/A**	**N/A**	**3**	**327 IAC 8-2.6-2**
11. Development of monitoring plan	**N/A**	**N/A**	**3**	**327 IAC 8-2.5-6(f)**
H. Other Treatment Techniques				
1. Acrylamide (TT)	2	327 IAC 8-2-35	N/A	N/A
2. Epichlorohydrin (TT)	2	327 IAC 8-2-35	N/A	N/A

II. Unregulated Contaminant Monitoring:				
A. Nickel	N/A	N/A	3	327 IAC 8-2-4.1(e)
III. Other Situations Requiring Public Notification:				
A. Fluoride secondary maximum contaminant level (SMCL) exceedance	3	40 CFR § 143.3*	N/A	N/A
B. Exceedance of nitrate MCL for noncommunity systems, as allowed by the commissioner	1	327 IAC 8-2-4(b)	N/A	N/A
C. Waterborne disease outbreak	1	327 IAC 8-2-1	N/A	N/A
D. Other waterborne emergency	1	N/A	N/A	N/A
E. Other situations as determined by the commissioner	1, 2, 3	N/A	N/A	N/A

Key:

MCL = Maximum contaminant level

TT = Treatment technique

Violations of drinking water regulations ~~is used here to included~~ **include** violations of MCL, MRDL, treatment technique, monitoring, and testing procedure requirements.

(b) Drinking water violations and other situations that require public notice according to this rule are contained in the following provisions:

(1) Violations and other situations not listed in ~~this~~ table **16 in subsection (a),** such as reporting violations and failure to prepare Consumer Confidence Report do not require notice, unless otherwise determined by the commissioner. The commissioner may, ~~optionally,~~ **at their option,** also require a more stringent public notice tier such as Tier 1 instead of Tier 2 or Tier 2 instead of Tier 3 for specific violations and situations listed in ~~the above.~~ **table 16 in subsection (a).**

(2) Failure to test for fecal coliform or E. coli is a Tier 1 violation if testing is not done after any repeat sample tests positive for coliform. All other total coliform monitoring and testing procedure violations are Tier 3.

(3) Systems with treatment technique violations involving a single exceedance of maximum turbidity limit under the surface water treatment rule (SWTR) are required to initiate consultation with the commissioner within twenty-four (24) hours after learning of the violation. Based on this consultation, the commissioner may subsequently decide to elevate the violation to Tier 1. If a system is unable to make contact with the commissioner in the twenty-four (24) hour period, the violation is automatically elevated to Tier 1.

(4) Failure to take a confirmation sample within twenty-four (24) hours for nitrate or nitrite after an initial sample exceeds the MCL is a Tier 1 Violation. Other monitoring violations for nitrate are Tier 3.

(5) Other waterborne emergencies require a Tier 1 public notice under section 8(a) of this rule for situations that do not meet the definition of a waterborne disease outbreak given in 327 IAC 8-2-1, but that still have the potential to have serious adverse effects on health as a result of short-term exposure. These could include outbreaks not related to treatment deficiencies, as well as situations that have the potential to cause outbreaks, such as failures or significant interruption in water treatment processes, natural disasters that disrupt the water supply or distribution system, chemical spills, or unexpected loading of possible pathogens into the source water.

(6) The commissioner may place other situations in any tier believed appropriate, based on threat to public health.

*40 CFR 143.3 is incorporated by reference and is available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206. *(Water Pollution Control Board; 327 IAC 8-2.1-16; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1115; errata filed Feb 22, 2002, 2:01 p.m.: 25 IR 2254)*

SECTION 14. 327 IAC 8-2.1-17, AS ADDED AT 25 IR 1118, SECTION 26, IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.1-17 Drinking water violations; standard health effects language for public notice

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-18-16-6; IC 13-18-16-7; IC 13-18-16-9
Affected: IC 13-18-16

Sec. 17. A public water system must comply with the standard health effects language for public notification contained in the following table:

Table 17. Standard Health Effects Language for Public Notification			
Contaminant	MCLG mg/L	MCL mg/L	Standard Health Effects Language for Public Notification
Drinking Water Regulations:			
A. Microbiological Contaminants, **Surface Water Treatment Rule, and Interim Enhanced Surface Water Treatment Rule**			
1a. Total coliform	~~Zero~~ **0**	See footnote	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
1b. Fecal coliform/E. coli	~~Zero~~ **0**	~~Zero~~ **0**	Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.
2a. Turbidity (MCL)	None	1 NTU/ 5 NTU	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
2b. Turbidity (SWTR TT) **and (IESWTR TT)**	None	TT	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
2c. Giardia lamblia **2d. Viruses** **2e. Heterotrophic plate county (HPC) bacteria** **2f. Legionella** **2g. Cryptosporidium**	**0**	**TT**	**Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms, such as nausea, cramps, diarrhea, and associated headaches.**
B. Inorganic Chemicals (IOCs)			
3. Antimony	0.006	0.006	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
4. Arsenic	None	0.05	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
5. Asbestos (>10 μm)	7 MFL	7 MFL	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
6. Barium	2	2	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
7. Beryllium	0.004	0.004	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
8. Cadmium	0.005	0.005	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
9. Chromium (total)	0.1	0.1	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
10. Cyanide	0.2	0.2	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

11. Fluoride	4.0	4.0	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine (9) years old. Mottling, also known as dental fluorosis, may include brown staining or pitting of the teeth, or both, and occurs only in developing teeth before they erupt from the gums.
12. Mercury (inorganic)	0.002	0.002	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
13. Nitrate	10	10	Infants below the age of six (6) months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
14. Nitrite	1	1	Infants below the age of six (6) months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
15. Total Nitrate and Nitrite	10	10	Infants below the age of six (6) months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
16. Selenium	0.05	0.05	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
17. Thallium	0.0005	0.002	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
C. Lead and Copper Rule			
18. Lead	~~Zero~~ **0**	TT	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.
19. Copper	1.3	TT	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
D. Synthetic Organic Chemicals (SOCs)			
20. 2,4-D	0.07	0.07	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
21. 2,4,5-TP (Silvex)	0.05	0.05	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
22. Alachlor	~~Zero~~ **0**	0.002	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
23. Atrazine	0.003	0.003	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

24. Benzo(a)pyrene (PAHs)	~~Zero~~ **0**	0.0002	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
25. Carbofuran	0.04	0.04	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
26. Chlordane	~~Zero~~ **0**	0.002	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
27. Dalapon	0.2	0.2	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
28. Di (2-ethylhexyl) adipate	0.4	0.4	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.
29. Di (2-ethylhexyl) phthalate	~~Zero~~ **0**	0.006	Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
30. Dibromochloropropane (DBCP)	~~Zero~~ **0**	0.0002	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
31. Dinoseb	0.007	0.007	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
32. Dioxin (2,3,7,8-TCDD)	~~Zero~~ **0**	3×10^{-8}	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
33. Diquat	0.02	0.02	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
34. Endothall	0.1	0.1	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
35. Endrin	0.002	0.002	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
36. Ethylene dibromide	~~Zero~~ **0**	0.00005	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
37. Glyphosate	0.7	0.7	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
38. Heptachlor	~~Zero~~ **0**	0.0004	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
39. Heptachlor epoxide	~~Zero~~ **0**	0.0002	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
40. Hexachlorobenzene	~~Zero~~ **0**	0.001	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
41. Hexachlorocyclo-pentadiene	0.05	0.05	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

42. Lindane	0.0002	0.0002	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
43. Methoxychlor	0.04	0.04	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
44. Oxamyl (Vydate)	0.2	0.2	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
45. Pentachlorophenol	~~Zero~~ **0**	0.001	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
46. Picloram	0.5	0.5	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
47. Polychlorinated biphenyls (PCBs)	~~Zero~~ **0**	0.0005	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
48. Simazine	0.004	0.004	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
49. Toxaphene	~~Zero~~ **0**	0.003	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
E. Volatile Organic Chemicals (VOCs)			
50. Benzene	~~Zero~~ **0**	0.005	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
51. Carbon tetrachloride	~~Zero~~ **0**	0.005	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
52. Chlorobenzene (monochlorobenzene)	0.1	0.1	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
53. o-Dichlorobenzene	0.6	0.6	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
54. p-Dichlorobenzene	0.075	0.075	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
55. 1,2-Dichloroethane	~~Zero~~ **0**	0.005	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
56. 1,1-Dichloroethylene	0.007	0.007	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
57. cis-1,2-Dichloroethylene	0.07	0.07	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
58. trans-1,2-Dichloroethylene	0.1	0.1	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
59. Dichloromethane	~~Zero~~ **0**	0.005	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
60. 1,2-Dichloropropane	~~Zero~~ **0**	0.005	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

61. Ethylbenzene	0.7	0.7	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
62. Styrene	0.1	0.1	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
63. Tetrachloroethylene	~~Zero~~ **0**	0.005	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
64. Toluene	1	1	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
65. 1,2,4-Trichlorobenzene	0.07	0.07	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
66. 1,1,1-Trichloroethane	0.2	0.2	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
67. 1,1,2-Trichloroethane	0.003	0.005	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
68. Trichloroethylene	~~Zero~~ **0**	0.005	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
69. Vinyl chloride	~~Zero~~ **0**	0.002	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
70. Xylenes (total)	10	10	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.
F. Radioactive Contaminants			
71. Beta/photon emitters	~~Zero~~ **0**	4 mrem/yr	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
72. Alpha emitters	~~Zero~~ **0**	15 pCi/L	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
73. Combined radium (226 and 228)	~~Zero~~ **0**	5 pCi/L	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
G. Disinfection Byproducts (DBPs): Where disinfection is used in the treatment of drinking water, disinfectants combine with organic and inorganic matter present in water to form chemicals called disinfection byproducts (DBPs). EPA sets standards for controlling the levels of disinfectants and DBPs in drinking water.			
74. Total trihalomethanes (TTHMs)	N/A	0.10/ 0.080	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.
75. Haloacetic acids (HAA)	**N/A**	**0.060**	**Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.**
76. Bromate	**0**	**0.010**	**Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.**

77. Chlorite	**0.08**	**1.0**	**Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.**
78. Chlorine	**4 MRDLG**	**4.0 MRDL**	**Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.**
79. Chloramines	**4 MRDLG**	**4.0 MRDL**	**Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.**
80a. Chlorine dioxide, where any 2 consecutive daily samples taken at the entrance to the distribution system are above the MRDL	**0.8 MRDLG**	**0.8 MRDL**	**Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.** **Add for public notification only: The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, not within the distribution system that delivers water to consumers. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to consumers.**
80b. Chlorine dioxide, where one or more distribution system samples are above the MRDL	**0.8 MRDLG**	**0.8 MRDL**	**Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.** **Add for public notification only: The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system which delivers water to consumers. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects from excessive chlorine dioxide exposure.**
81. Control of DBP precursors (TOC)	**None**	**TT**	**Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.**
H. Other Treatment Techniques			
~~*75.*~~ **82.** Acrylamide	~~Zero~~ **0**	TT	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
~~*76.*~~ **83.** Epichlorohydrin	~~Zero~~ **0**	TT	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

Key:
MCLG - Maximum contaminant level goal
MCL - Maximum contaminant level
NTU - Nephelometric turbidity unit
TT - Treatment technique
MFL - Millions of fiber per liter
Action Level (Lead) = 0.015 mg/L
Action Level (Copper) = 1.3 mg/L
mrem - millirems per year
ppq - picocuries per liter

(1) For water systems analyzing at least forty (40) samples per month, no more than five percent (5.0%) of the monthly samples may be positive for total coliforms. For systems analyzing fewer than forty (40) samples per month, no more than one (1) sample per month may be positive for total coliforms.

(2) The bacteria detected by heterotrophic plate count (HPC) are not necessarily harmful. HPC is simply an alternative method of determining disinfectant residual levels. The number of such bacteria is an indicator of whether there is enough disinfectant in the distribution system.

(3) SWTR treatment technique violations that involve turbidity exceedances may use the health effects language for turbidity instead.

(4) The bacteria detected by **heterotrophic plate count** (HPC) are not necessarily harmful. HPC is simply an alternative method of determining disinfectant residual levels. The number of such bacteria is an indicator of whether there is enough disinfectant in the distribution system.

(5) The MCL for total trihalomethanes is the sum of the concentrations of the individual trihalomethanes.

(Water Pollution Control Board; 327 IAC 8-2.1-17; filed Nov 20, 2001, 10:20 a.m.: 25 IR 1118; errata filed Feb 22, 2002, 2:01 p.m.: 25 IR 2254)

SECTION 15. 327 IAC 8-2.5 IS ADDED TO READ AS FOLLOWS:

Rule 2.5. Disinfectants and Disinfection

327 IAC 8-2.5-1 Maximum residual disinfectant level goals; disinfectants

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 1. MRDLGs for disinfectants are as follows:

Disinfectant Residual	MRDLG (mg/L)
Chlorine	**4.0 (as Cl_2)**
Chloramines	**4.0 (as Cl_2)**
Chlorine dioxide	**0.8 (as ClO_2)**

(Water Pollution Control Board; 327 IAC 8-2.5-1)

327 IAC 8-2.5-2 Maximum contaminant levels; disinfection byproducts

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 2. (a) The MCLs for disinfection byproducts are as follows:

Disinfection Byproduct	MCL (mg/L)
Total trihalomethanes (TTHM)	**0.080**
Haloacetic acids (five) (HAA5)	**0.060**
Bromate	**0.010**
Chlorite	**1.0**

(b) A system that is installing GAC or membrane technology to comply with this section may apply to the commissioner for an extension of up to twenty-four (24) months past the dates in section 4(b) of this rule, but not later than December 31, 2003. In granting the extension, the commissioner shall set a schedule for compliance and may specify any interim measures that the system must take.

(c) The commissioner hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts identified in subsection (a):

Disinfection Byproduct	Best Available Technology
TTHM	**Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.**
HAA5	**Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.**
Bromate	**Control of ozone treatment process to reduce production of bromate.**
Chlorite	**Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.**

(Water Pollution Control Board; 327 IAC 8-2.5-2)

327 IAC 8-2.5-3 Maximum residual disinfectant levels

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 3. (a) MRDLs are as follows:

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl_2)
Chloramines	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

(b) The commissioner hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the MRDLs identified in subsection (a):

(1) Control of treatment processes to reduce disinfectant demand.

(2) Control of disinfection treatment processes to reduce disinfectant levels.

(Water Pollution Control Board; 327 IAC 8-2.5-3)

327 IAC 8-2.5-4 General requirements; disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 4. (a) The general requirements for disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors are as follows:

(1) A CWS or an NTNCWS, which adds a chemical disinfectant to the water in any part of the drinking water treatment process, shall modify its practices to meet MCLs and MRDLs in sections 2(a) and 3(a) of this rule, respectively, and shall meet the treatment technique requirements for disinfection byproduct precursors in section 9 of this rule.

(2) A TWS that uses chlorine dioxide as a disinfectant or oxidant shall modify its practices to meet the MRDL for chlorine dioxide in section 3(a) of this rule.

(b) Compliance dates for CWSs and NTNCWSs are as follows:

(1) A subpart H system serving a population of ten thousand (10,000) or more individuals shall comply with this section upon the effective date of this rule.

(2) A subpart H system serving a population of fewer than ten thousand (10,000) individuals and a system using only ground water not under the direct influence of surface water shall comply with this section beginning January 1, 2004.

(c) Compliance dates for TWSs are as follows:

(1) A subpart H system serving a population of ten thousand (10,000) or more individuals and using chlorine dioxide as a disinfectant or oxidant shall comply with requirements for chlorine dioxide in this section upon the effective date of this rule.

(2) A subpart H system serving a population of fewer than ten thousand (10,000) individuals and using chlorine dioxide as a disinfectant or oxidant and a system using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant shall comply with requirements for chlorine dioxide in this section beginning January 1, 2004.

(d) A CWS or a NTNCWS regulated under subsection (a) must be operated by qualified personnel who meet the requirements specified by 327 IAC 8-12.

(e) Notwithstanding the MRDLs in section 3 of this rule, systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines, but not chlorine dioxide, to a level and for a time necessary to protect public health and to address specific microbiological contamination problems caused by circumstances, including the following:

(1) Distribution line breaks.

(2) Storm water run-off events.

(3) Source water contamination events.

(4) Cross-connection events.

(Water Pollution Control Board; 327 IAC 8-2.5-4)

327 IAC 8-2.5-5 Analytical requirements; disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 5. (a) Systems shall use only one (1) or more of the analytical methods specified in this subsection. These methods are incorporated by reference and may be obtained as follows:

(1) EPA Method 552.1 is in Methods for the Determination of Organic Compounds in Drinking Water-Supplement II, U.S. EPA, August 1992, EPA/600/R-92/129 (available through National Information Technical Service (NTIS), PB92-207703).

(2) EPA Methods 502.2, 524.2, 551.1, and 552.2 are in Methods for the Determination of Organic Compounds in Drinking Water-Supplement III, U.S. EPA, August 1995, EPA/600/R-95/131. (available through NTIS, PB95-261616).

(3) EPA Methods 300.0 and 150.1 are in Methods for the Determination of Inorganic Substances in Environmental Samples, U.S. EPA, August 1993, EPA/600/R-93/100. (available through NTIS, PB94-121811).

(4) EPA Method 300.1 is in U.S. EPA Method 300.1, Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0, U.S. EPA, 1997, EPA/600/R-98/118 (available through NTIS, PB98-169196); also available from: Chemical Exposure Research Branch, Microbiological & Chemical Exposure Assessment Research Division, National Exposure Research Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, Fax Number: 513-569-7757, Phone number: 513-569-7586.

(5) Standard Methods 4500-Cl D, 4500-Cl E, 4500-Cl F, 4500-Cl G, 4500-Cl H, 4500-Cl I, 4500-ClO_2 D, 4500-ClO_2 E, 4500-H^+ B, 6251 B, and 5910 B shall be followed in accordance with Standard Methods for the Examination of Water and Wastewater, 19th Edition, American Public Health Association, 1995. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, D.C. 20005.

(6) Standard Methods 5310 B, 5310 C, and 5310 D shall be followed in accordance with the Supplement to the 19th Edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 1996. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, D.C. 20005.

(7) ASTM Methods D 1253-86 and D1293-95 shall be followed in accordance with the Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 1996 edition. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohoken, Pennsylvania 19428. These methods are also available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room 1254, Indianapolis, Indiana 46204.

(b) Analytical requirements for disinfection byproducts are as follows:

(1) Systems shall measure disinfection byproducts by the methods, as modified by the footnotes, listed in the following table:

APPROVED METHODS FOR DISINFECTION BYPRODUCT COMPLIANCE MONITORING

			Byproduct Measured[1]			
Methodology[2]	EPA Method	Standard Method	TTHM	HAA5	Chlorite[4]	Bromate
P&T/GC/ElCD & PID	502.2[3]		X			
P&T/GC/MS	524.2		X			
LLE/GC/ECD	551.1		X			
LLE/GC/ECD		6251 B		X		
SPE/GC/ECD	552.1			X		
LLE/GC/ECD	552.2			X		
Amperometric Titration		4500-ClO_2 E			X	
IC	300.0				X	
IC	300.1				X	X

[1]X indicates method is approved for measuring specified disinfection byproduct.

[2]P&T = purge and trap; GC = gas chromatography; ElCD = electrolytic conductivity detector; PID = photoionization detector; MS = mass spectrometer; LLE = liquid/liquid extraction; ECD = electron capture detector; SPE = solid phase extractor; IC = ion chromatography.

[3]If TTHMs are the only analytes being measured in the sample, then a PID is not required.

[4]Amperometric titration may be used for routine daily monitoring of chlorite at the entrance to the distribution system, as prescribed in section 6(b)(2)(A)(i) of this rule. Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system, as prescribed in section 6(b)(2)(A)(ii) and 6(b)(2)(B) of this rule.

(2) Analysis under this subsection for disinfection byproducts must be conducted by laboratories that have received certification by the commissioner, except as specified under subdivision (3). To receive certification to conduct analyses for the contaminants in section 2(a) of this rule, the laboratory must carry out annual analyses of performance evaluation (PE) samples approved by the commissioner. In these analyses of PE samples, the laboratory must achieve quantitative results within the acceptance limit on a minimum of eighty percent (80%) of the analytes included in each PE sample. The acceptance limit is defined as the ninety-five percent (95%) confidence interval calculated around the mean of the PE study data between a maximum and minimum acceptance limit of plus or minus fifty percent (50%) and plus or minus fifteen percent (15%) of the study mean.

(3) A certified operator or other party as approved by the commissioner shall measure daily chlorite samples at the entrance to the distribution system.

(c) Analytical requirements for disinfectant residuals are as follows:

(1) A system shall measure residual disinfectant concentrations for free chlorine, combined chlorine (chloramines), and chlorine dioxide by the methods listed in the following table:

APPROVED METHODS FOR DISINFECTANT RESIDUAL COMPLIANCE MONITORING

			Residual Measured[1]			
Methodology	Standard Method	ASTM Method	Free Chlorine	Combined Chlorine	Total Chlorine	Chlorine Dioxide
Amperometric Titration	4500-Cl D	D 1253-86	X	X	X	
Low Level Amperometric Titration	4500-Cl E				X	
DPD[2] Ferrous Titrimetric	4500-Cl F		X	X	X	
DPD[2] Colorimetric	4500-Cl G		X	X	X	
Syringaldazine (FACTS)	4500-Cl H		X			
Iodometric Electrode	4500-Cl I				X	
DPD[2]	4500-ClO_2 D					X
Amperometric Method II	4500-ClO_2 E					X

[1]X indicates method is approved for measuring specified disinfectant residual.

[2]DPD means N,N-diethyl-4-phenylene diamine.

(2) If approved by the commissioner, a system may also measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide by using DPD colorimetric test kits.

(3) Residual disinfectant concentration may be measured only by a certified operator or a party approved by the commissioner.

(d) Systems required to analyze parameters not included in subsections (b) and (c) shall use the following methods:

(1) All methods allowed in 327 IAC 8-2-45 for measuring alkalinity and pH.

(2) For bromide, EPA Method 300.0 or EPA Method 300.1.

(3) A system shall use one or all of the following methods for TOC:

(A) Standard Method 5310 B (High-Temperature Combustion Method).

(B) Standard Method 5310 C (Persulfate-Ultraviolet or Heated-Persulfate Oxidation Method).

(C) Standard Method 5310 D (Wet-Oxidation Method).

TOC samples may not be filtered prior to analysis. TOC samples must either be analyzed or must be acidified to achieve pH less than two (2.0) by minimal addition of phosphoric or sulfuric acid as soon as practical after sampling, not to exceed twenty-four (24) hours. Acidified TOC samples must be analyzed within twenty-eight (28) days.

(4) SUVA is equal to the UV absorption at two hundred fifty-four (254) nanometers (UV_{254}) (measured in m^{-1}) divided by the dissolved organic carbon (DOC) concentration (measured as milligrams per liter). In order to determine SUVA, UV_{254} and DOC must be measured separately. When determining SUVA, systems shall use the following methods:

(A) A system shall use one (1) or more of the following methods to measure DOC:

(i) Standard Method 5310 B (High-Temperature Combustion Method).

(ii) Standard Method 5310 C (Persulfate-Ultraviolet or Heated-Persulfate Oxidation Method).

(iii) Standard Method 5310 D (Wet-Oxidation Method).

(B) Prior to analysis under clause (A), DOC samples must be filtered through a forty-five hundredths (0.45) micrometer pore-diameter filter. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet the following criteria:

(i) DOC is less than five-tenths (0.5) milligram per liter.

(ii) DOC samples must be filtered through the forty-five hundredths (0.45) micrometer pore-diameter filter prior to acidification.

(iii) DOC samples must either be analyzed or must be acidified to achieve pH less than two (2.0) by minimal addition of phosphoric or sulfuric acid as soon as practical after sampling, not to exceed forty-eight (48) hours.

(iv) Acidified DOC samples must be analyzed within twenty-eight (28) days.

(C) The following apply to a system required to measure UV_{254} under this subdivision:

(i) A system shall use Method 5910 B (Ultraviolet Absorption Method) to measure ultraviolet absorption at two hundred fifty-four (254) nanometers (UV_{254}). UV absorption must be measured at two hundred fifty-three and seven-tenths (253.7) nanometers (may be rounded off to two hundred fifty-four (254) nanometers).

(ii) Prior to analysis, UV_{254} samples must be filtered through a forty-five hundredths (0.45) micrometer pore-diameter filter.

(iii) The pH of UV_{254} samples may not be adjusted.

(iv) Samples must be analyzed as soon as practical after sampling, not to exceed forty-eight (48) hours.

SUVA must be determined on water prior to the addition of disinfectants/oxidants by the system. DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location.

(e) Parameters measured under subsection (d) must be measured by a certified operator or a party approved by the commissioner. *(Water Pollution Control Board; 327 IAC 8-2.5-5)*

327 IAC 8-2.5-6 Monitoring requirements; disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 6. (a) General monitoring requirements for disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors are as follows:

(1) Systems shall take all samples during normal operating conditions.

(2) Systems may consider multiple wells drawing water from a single aquifer as one (1) treatment plant for determining the minimum number of TTHM and HAA5 samples required.

(3) Failure to monitor in accordance with the monitoring plan required under subsection (f) is a monitoring violation.

(4) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(5) Systems may use only data collected under the provisions of subsection (b) or 40 CFR 141.140 through 40 CFR 141.144* to qualify for reduced monitoring.

(b) Monitoring requirements for disinfection byproducts are as follows:

(1) TTHM and HAA5 monitoring requirements are as follows:

(A) For routine monitoring, systems shall monitor at the frequency indicated in the following table:

ROUTINE MONITORING FREQUENCY FOR TTHM AND HAA5		
Type of System	**Minimum Monitoring Frequency**	**Sample Location in the Distribution System**
Subpart H system serving at least 10,000 persons	4 water samples per quarter per treatment plant	At least 25% of all samples collected each quarter at locations representing maximum residence time. Remaining samples taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods[1].
Subpart H system serving from 500 to 9,999 persons	1 water sample per quarter per treatment plant	Locations representing maximum residence time[1].
Subpart H system serving fewer than 500 persons	1 sample per year per treatment plant during month of warmest water temperature	Locations representing maximum residence time[1]. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to 1 sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in clause (D).
System using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons	1 water sample per quarter per treatment plant[2]	Locations representing maximum residence time[1].

System using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons	1 sample per year per treatment plant[2] during month of warmest water temperature	Locations representing maximum residence time[1]. If the sample (or average of annual samples, if more than 1 sample is taken) exceeds the MCL, the system must increase monitoring to 1 sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in clause (D) for reduced monitoring.

[1]If a system elects to sample more frequently than the minimum required, at least twenty-five percent (25%) of all samples collected each quarter, including those taken in excess of the required frequency, must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

[2]Multiple wells drawing water from a single aquifer may be considered one (1) treatment plant for determining the minimum number of samples required.

(B) Systems may reduce monitoring, except as otherwise provided, in accordance with the following table:

REDUCED MONITORING FREQUENCY FOR TTHM AND HAA5		
IF YOU ARE A:	AND YOU HAVE MONITORED AT LEAST ONE YEAR AND YOUR:	YOU MAY REDUCE MONITORING TO THIS LEVEL:
Subpart H system serving at least 10,000 persons that has a source water annual average TOC level, before any treatment, ≤ 4.0 mg/L	TTHM annual average ≤0.040 mg/L and HAA5 annual average ≤0.030mg/L	1 sample per treatment plant per quarter at distribution system location reflecting maximum residence time
Subpart H system serving from 500 to 9,999 persons that has a source water annual average TOC level, before any treatment, ≤ 4.0 mg/L	TTHM annual average ≤0.040 mg/L and HAA5 annual average ≤0.030mg/L	1 sample per treatment plant per year at distribution system location reflecting maximum residence time during month of warmest water temperature. NOTE: Any Subpart H system serving fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.
System using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons	TTHM annual average ≤0.040 mg/L and HAA5 annual average ≤0.030mg/L	1 sample per treatment plant per year at distribution system location reflecting maximum residence time during month of warmest water temperature
System using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons	TTHM annual average ≤0.040 mg/L and HAA5 annual average ≤0.030mg/L for two consecutive years OR TTHM annual average ≤0.020 mg/L and HAA5 annual average ≤0.015mg/L for 1 year	1 sample per treatment plant per 3 year monitoring cycle at distribution system location reflecting maximum residence time during month of warmest water temperature, with the 3 year cycle beginning on January 1 following quarter in which system qualifies for reduced monitoring

(C) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems that must monitor quarterly) or the result of the sample (for systems that must monitor no more frequently than annually) is no more than sixty-thousandths (0.060) milligram per liter and forty-five thousandths (0.045) milligram per liter for TTHMs and HAA5, respectively. Systems that do not meet these levels shall resume monitoring at the frequency identified in the table contained in clause (A) (minimum monitoring frequency column) in the quarter immediately following the monitoring period in which the system exceeds those levels. For systems using only ground water not under the direct influence of surface water and serving fewer than ten thousand (10,000) persons, if either the TTHM annual average is greater than eighty-thousandths (0.080) milligram per liter or the HAA5 annual average is greater than sixty-thousandth (0.060) milligram per liter, the system shall go to the increased

monitoring identified in the table contained in clause (A) (sample location column) in the quarter immediately following the monitoring period in which the system exceeds those levels.

(D) Systems on increased monitoring may return to routine monitoring if, after at least one (1) year of monitoring their TTHM annual average is equal to or less than sixty-thousandths (0.060) milligram per liter and their HAA5 annual average is equal to or less than forty-five thousandths (0.045) milligram per liter.

(E) A system may return to routine monitoring at the commissioner's discretion.

(2) CWSs and NTNCWSs using chlorine dioxide for disinfection or oxidation must conduct monitoring for chlorite as follows:

(A) Routine monitoring is as follows:

(i) Systems shall take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system shall take additional samples in the distribution system the following day at the locations required by clause (B), in addition to the sample required at the entrance to the distribution system.

(ii) Systems shall take a three (3) sample set each month in the distribution system. The system shall take one (1) sample at each of the following locations:

(AA) Near the first customer.

(BB) At a location representative of average residence time.

(CC) At a location reflecting maximum residence time in the distribution system.

Any additional routine sampling must be conducted in the same manner (as three (3) sample sets, at the specified locations). The system may use the results of additional monitoring conducted under clause (B) to meet the requirement for monitoring in this clause.

(B) On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system shall take three (3) chlorite distribution system samples at the following locations:

(i) As close to the first customer as possible.

(ii) In a location representative of average residence time.

(iii) As close to the end of the distribution system as possible.

(C) Monitoring for chlorite may be reduced as follows:

(i) Chlorite monitoring at the entrance to the distribution system required by clause (A)(i) may not be reduced.

(ii) Chlorite monitoring in the distribution system required by clause (A)(ii) may be reduced to one (1) three (3) sample set per quarter after one (1) year of monitoring where no individual chlorite sample taken in the distribution system under clause (A)(ii) has exceeded the chlorite MCL and the system has not been required to conduct monitoring under clause (B). The system may remain on the reduced monitoring schedule unless one (1) of the three (3) individual chlorite samples taken monthly in the distribution system under clause (A)(ii) exceeds the chlorite MCL or the system is required to conduct monitoring under clause (B), at which time the system shall revert to routine monitoring.

(3) Monitoring for bromate is as follows:

(A) CWSs and NTNCWSs using ozone for disinfection or oxidation shall take one (1) sample per month for each treatment plant in the system using ozone. Systems shall take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than five-hundredths (0.05) milligram per liter based upon representative monthly bromide measurements for one (1) year. The system may remain on reduced bromate monitoring unless the running annual average source water bromide concentration, computed quarterly, is equal to or greater than five-hundredths (0.05) milligram per liter based upon representative monthly measurements. If the running annual average source water bromide concentration is equal to or greater than five-hundredths (0.05) milligram per liter, the system shall resume routine monitoring required by clause (A).

(c) Monitoring requirements for disinfectant residuals are as follows:

(1) Monitoring for chlorine and chloramines is as follows:

(A) CWSs and NTNCWSs that use chlorine or chloramines shall measure the residual disinfectant level in the distribution system when total coliforms are sampled, as specified in 327 IAC 8-2-8. Subpart H systems may use the results of residual disinfectant concentration sampling conducted under 327 IAC 8-2-8.8(d) for systems which filter, in lieu of taking separate samples.

(B) Monitoring for chlorine or chloramines may not be reduced.

(2) Monitoring for chlorine dioxide is as follows:

(A) CWSs, NTNCWSs, and TWSs that use chlorine dioxide for disinfection or oxidation shall take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system shall take samples in the distribution system the following day at the locations required by clause (D), in addition to the sample required at the entrance to the distribution system.

(B) On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to

take three (3) chlorine dioxide distribution system samples.

(i) If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system, for example, no booster chlorination, the system shall take three (3) samples as close to the first customer as possible, at intervals of at least six (6) hours.

(ii) If chlorine is used to maintain a disinfectant residual in the distribution system and there are one (1) or more disinfection addition points after the entrance to the distribution system, for example, booster chlorination, the system shall take one (1) sample at each of the following locations:

(AA) As close to the first customer as possible.

(BB) In a location representative of average residence time.

(CC) As close to the end of the distribution system as possible, reflecting maximum residence time in the distribution system.

(C) Chlorine dioxide monitoring may not be reduced.

(d) Monitoring requirements for disinfection byproduct precursors (DBPP) are as follows:

(1) Routine monitoring is required as follows:

(A) Subpart H systems which use conventional filtration treatment, as defined in 327 IAC 8-2-1, shall monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water.

(B) All systems required to monitor under this subdivision shall also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples, source water and treated water, are referred to as paired samples.

(C) At the same time as the source water sample is taken, all systems shall monitor for alkalinity in the source water prior to any treatment.

(D) Systems shall take one (1) paired sample and one (1) source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(2) Subpart H systems with an average treated water TOC of less than two (2.0) milligrams per liter for two (2) consecutive years, or less than one (1.0) milligram per liter for one (1) year, may reduce monitoring for both TOC and alkalinity to one (1) paired sample and one (1) source water alkalinity sample per plant per quarter. The system shall revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to two (2.0) milligrams per liter.

(e) Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter if the system demonstrates that the average source water bromide concentration is less than five-hundredths (0.05) milligram per liter based upon representative monthly measurements for one (1) year. The system shall continue bromide monitoring to remain on reduced bromate monitoring.

(f) Each system required to monitor under this section shall develop and implement a monitoring plan as follows:

(1) The system shall maintain the plan and make it available for inspection by the commissioner and the general public no later than thirty (30) days following the applicable compliance dates in section 4(b) of this rule.

(2) All Subpart H systems serving more than three thousand three hundred (3,300) people shall submit a copy of the monitoring plan to the commissioner no later than the date of the first report required under section 8 of this rule.

(3) The commissioner may also require any other system to submit a monitoring plan.

(4) After review, the commissioner may require changes in any plan elements.

(5) The plan must include at a minimum the following elements:

(A) Specific locations and schedules for collecting samples for any parameters included in this section.

(B) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques.

*40 CFR 141.140 through 141.144 is incorporated by reference and is available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206. *(Water Pollution Control Board; 327 IAC 8-2.5-6)*

327 IAC 8-2.5-7 Compliance requirements; disinfectants and disinfection byproducts

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 7. (a) General compliance requirements for disinfectants and disinfection byproducts are as follows:

(1) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(2) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and

chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(3) All samples taken and analyzed under the provisions of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(4) If, during the first year of monitoring under section 6 of this rule, any particular quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(b) Compliance requirements for disinfection byproducts are as follows:

(1) Compliance requirements for TTHMs and HAA5 are as follows:

(A) For systems monitoring quarterly, compliance with MCLs in section 1(b) of this rule will be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by section 6(b)(1) of this rule.

(B) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under the provisions of section 6(b)(1) of this rule does not exceed the MCLs in section 1 of this rule. If the average of these samples exceeds the MCL, the system shall increase monitoring to once per quarter per treatment plant. Such a system is not in violation of the MCL until it has completed one (1) year of quarterly monitoring, unless the result of fewer than four (4) quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample that triggered the increased monitoring plus the following three (3) quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four (4) quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to 327 IAC 8-2.1-7, in addition to reporting to the commissioner pursuant to section 8 of this rule.

(D) If a public water system fails to complete four (4) consecutive quarters of monitoring, compliance with the MCL for the last four (4) quarter compliance period must be based on an average of the available data.

(2) Compliance requirements for bromate will be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one (1) sample, the average of all samples taken during the month) collected by the system as prescribed by section 6(b)(3) of this rule. If the average of samples covering any consecutive four (4) quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to 327 IAC 8-2.1-7, in addition to reporting to the agency pursuant to section 8 of this rule. If a public water system fails to complete twelve (12) consecutive months of monitoring, compliance with the MCL for the last four (4) quarter compliance period must be based on an average of the available data.

(3) Compliance requirements for chlorite will be based on an arithmetic average of each three (3) sample set taken in the distribution system as prescribed by section 6(b)(2)(A)(ii) and 6(b)(2)(B) of this rule. If the arithmetic average of any three (3) sample sets exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to 327 IAC 8-2.1-3 through 327 IAC 8-2.1-17, in addition to reporting to the commissioner pursuant to section 8 of this rule.

(c) Compliance requirements for disinfectant residuals are as follows:

(1) Compliance requirements for chlorine and chloramines are as follows:

(A) Compliance will be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under section 6(c)(1) of this rule. If the average covering any consecutive four (4) quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public pursuant to 327 IAC 8-2.1-7, in addition to reporting to the commissioner pursuant to section 8 of this rule.

(B) Where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to section 8 of this rule must clearly indicate which residual disinfectant was analyzed for each sample.

(2) Compliance requirements for chlorine dioxide are as follows:

(A) Compliance requirements for acute violations are as follows:

(i) Compliance will be based on consecutive daily samples collected by the system under section 6(c)(2) of this rule.

(ii) If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (1) or more of the three (3) samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL, and must notify

the public pursuant to the procedures for acute health risks in 327 IAC 8-2.1-3 through 327 IAC 8-2.1-17.

(iii) Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for acute violations under 327 IAC 8-2.1-7 through 327 IAC 8-2.1-17 in addition to reporting the commissioner pursuant to section 8 of this rule.

(B) Compliance requirements for nonacute violations are as follows:

(i) Compliance will be based on consecutive daily samples collected by the system under section 6(c)(2) of this rule.

(ii) If any two (2) consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for nonacute health risks in 327 IAC 8-2.1-7 through 327 IAC 8-2.1-17 in addition to reporting to the commissioner pursuant to section 8 of this rule.

(iii) Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the system must notify the public of the violation in accordance with the provisions for nonacute violations under 327 IAC 8-2.1-7 in addition to reporting the commissioner pursuant to section 8 of this rule.

(d) Compliance for disinfection byproduct precursors (DBPP) are as follows:

(1) Compliance will be determined as specified by section 9 of this rule.

(2) Systems may begin monitoring to determine whether Step 1 TOC removals can be met twelve (12) months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any system that does not monitor during this period, and then determines in the first twelve (12) months after the compliance date that it is not able to meet the Step 1 requirements in section 9(b)(2) of this rule and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by section 9(b)(3) of this rule, and is in violation.

(3) Systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date.

(4) For systems required to meet Step 1 TOC removals, if the value calculated under section 9(c)(1)(D) of this rule is less than one (1.00), the system is in violation of the treatment technique requirements and must notify the public pursuant to 327 IAC 8-2.1-17(80)(a) and 327 IAC 8-2.1-17(80)(b), in addition to reporting to the commissioner pursuant to section 8 of this rule.

(Water Pollution Control Board; 327 IAC 8-2.5-7)

327 IAC 8-2.5-8 Reporting and record keeping requirements; disinfectants and disinfection byproducts

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 8. (a) Systems required to sample quarterly or more frequently shall report to the commissioner within ten (10) days after the end of each quarter in which samples were collected, notwithstanding the provisions of 327 IAC 8-2.1-7. Systems required to sample less frequently than quarterly report to the commissioner within ten (10) days after the end of each monitoring period in which samples were collected.

(b) For disinfection byproducts, systems must report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule on a quarterly or more frequent basis:	(i) The number of samples taken during the last quarter. (ii) The location, date, and result of each sample taken during the last quarter. (iii) The arithmetic average of all samples taken in the last quarter. (iv) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four (4) quarters. (v) Whether, based on section 7(b)(1) of this rule, the MCL was violated.
(2) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule less frequently than quarterly (but at least annually):	(i) The number of samples taken during the last year. (ii) The location, date, and result of each sample taken during the last monitoring period. (iii) The arithmetic average of all samples taken over the last year. (iv) Whether, based on section 7(b)(1) of this rule, the MCL was violated.

(3) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule less frequently than annually:	(i) The location, date, and result of the last sample taken. (ii) Whether, based on section 7(b)(1) of this rule, the MCL was violated.
(4) System monitoring for chlorite under the requirements of section 6(b) of this rule:	(i) The number of entry point samples taken each month for the last three (3) months. (ii) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter. (iii) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system. (iv) Whether, based on section 7(b)(3) of this rule, the MCL was violated, and in which month, and how many times it was violated each month.
(5) System monitoring for bromate under the requirements of section 6(b) of this rule:	(i) The number of samples taken during the last quarter. (ii) The location, date, and result of each sample taken during the last quarter. (iii) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year. (iv) Whether, based on section 7(b)(2) of this rule, the MCL was violated.

(c) For disinfectants, systems shall report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring for chlorine or chloramines under the requirements of section 6(c) of this rule:	(i) The number of samples taken during each month of the last quarter. (ii) The monthly arithmetic average of all samples taken in each month for the last twelve (12) months. (iii) The arithmetic average of all monthly averages for the last twelve (12) months. (iv) Whether, based on section 7(c)(1) of this rule, the MRDL was violated.
(2) System monitoring for chlorine dioxide under the requirements of section 6(c) of this rule:	(i) The dates, results, and locations of samples taken during the last quarter. (ii) Whether, based on section 7(c)(2) of this rule, the MRDL was violated. (iii) Whether the MRDL was exceeded in any two (2) consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) For disinfection byproduct precursors and enhanced coagulation or enhanced softening, systems shall report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring monthly or quarterly for TOC under the requirements of section 6(d) of this rule and required to meet the enhanced coagulation or enhanced softening requirements in section 9(b)(2) or 9(b)(3) of this rule:	(i) The number of paired (source water and treated water) samples taken during the last quarter. (ii) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter. (iii) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal. (iv) Calculations for determining compliance with the TOC percent removal requirements, as provided in section 9(c)(1) of this rule. (v) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in section 9(b) of this rule for the last four (4) quarters.

(2) System monitoring monthly or quarterly for TOC under the requirements of section 6(d) of this rule and meeting one (1) or more of the alternative compliance criteria in section 9(a)(2) or 9(a)(3) of this rule:	(i) The alternative compliance criterion that the system is using. (ii) The number of paired samples taken during the last quarter. (iii) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter. (iv) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in section 9(a)(2)(A) or 9(a)(2)(C) of this rule or of treated water TOC for systems meeting the criterion in section 9(a)(2)(B) of this rule. (v) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in section 9(a)(2)(G) of this rule or of treated water SUVA for systems meeting the criterion in section 9(a)(2)(H) of this rule. (vi) The running annual average of source water alkalinity for systems meeting the criterion in section 9(a)(2)(C) of this rule and of treated water alkalinity for systems meeting the criterion in section 9(a)(3)(A) of this rule. (vii) The running annual average for both TTHM and HAA5 for systems meeting the criterion in section 9(a)(2)(C) or 9(a)(2)(F) of this rule. (viii) The running annual average of the amount of magnesium hardness removal (as $CaCO_3$, in mg/L) for systems meeting the criterion in section 9(a)(3)(B) of this rule. (ix) Whether the system is in compliance with the particular alternative compliance criterion in section 9(a)(2) or 9(a)(3) of this rule.

(Water Pollution Control Board; 327 IAC 8-2.5-8)

327 IAC 8-2.5-9 Treatment techniques for control of disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 9. (a) Applicability is as follows:

(1) Subpart H systems using conventional filtration treatment shall operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in subsection (b) unless the system meets at least one (1) of the alternative compliance criteria listed in subdivision (2) or (3).

(2) Subpart H systems using conventional filtration treatment may use one (1) or all of the following alternative compliance criteria to comply with this section in lieu of complying with subsection (b):

(A) The system's source water TOC level, measured according to section 5(d)(3) of this rule, is less than two (2.0) milligrams per liter, calculated quarterly as a running annual average.

(B) The system's treated water TOC level, measured according to section 5(d)(3) of this rule, is less than two (2.0) milligrams per liter, calculated quarterly as a running annual average.

(C) The system's source water TOC level, measured according to section 5(d)(3) of this rule is less than four (4.0) milligrams per liter, calculated quarterly as a running annual average and the following are met:

(i) The source water alkalinity, measured according to section 5(d)(1) of this rule, is greater than sixty (60) milligrams per liter (as $CaCO_3$), calculated quarterly as a running annual average.

(ii) Either of the following:

(AA) The TTHM and HAA5 running annual averages are no greater than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively; or

(BB) Prior to the effective date for compliance in section 4(b) of this rule, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in section 4(b) of this rule to use technologies that will limit the levels of TTHMs and HAA5 to no more than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively. Systems shall submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the agency for approval not later than the effective date for compliance in section 4(b) of this rule. These technologies must be installed and operating not later than June 30, 2005.

(D) The TTHM and HAA5 running annual averages are no greater than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(E) The system's source water SUVA, prior to any treatment and measured monthly according to section 5(d)(4) of this rule, is less than or equal to two (2.0) liters per milligram meter, calculated quarterly as a running annual average.

(F) The system's finished water SUVA, measured monthly according to section 5(d)(4) of this rule, is less than or equal to two (2.0) liters per milligram meter, calculated quarterly as a running annual average.

(3) Systems practicing enhanced softening that cannot achieve the TOC removals required by subdivision (b)(2) may use the following alternative compliance criteria in lieu of complying with subsection (b):

(A) Softening that results in lowering the treated water alkalinity to less than sixty (60) milligrams per liter (as $CaCO_3$), measured monthly according to section 5(d)(1) of this rule and calculated quarterly as a running annual average.

(B) Softening that results in removing at least ten (10) milligrams per liter of magnesium hardness (as $CaCO_3$), measured monthly and calculated quarterly as an annual running average.

Systems shall comply with monitoring requirements in section 6(d) of this rule.

(b) Enhanced coagulation and enhanced softening performance requirements are as follows:

(1) Systems shall achieve the percent reduction of TOC specified in subdivision (2) between the source water and the combined filter effluent unless the commissioner approves a system's request for alternate minimum TOC removal (Step 2) requirements under subdivision (3).

(2) Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with section 6(d) of this rule. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity greater than one hundred twenty (120) milligrams per liter) for the specified source water TOC:

Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Subpart H Systems Using Conventional Treatment[1, 2]

Source-Water TOC, mg/L	Source-Water Alkalinity, mg/L as $CaCO_3$		
	0-60 (percent)	>60-120 (percent)	>120[3] (percent)
>2.0-4.0	35.0%	25.0%	15.0%
>4.0-8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

[1]Systems meeting at least one (1) of the conditions in subsection (a)(2) are not required to operate with enhanced coagulation.

[2]Softening systems meeting one (1) of the alternative compliance criteria in subsection (a)(3) are not required to operate with enhanced softening.

[3]Systems practicing softening shall meet the TOC removal requirements in this column.

(3) Subpart H conventional treatment systems that cannot achieve the Step 1 TOC removals required by subdivision (2) due to water quality parameters or operational constraints shall apply to the commissioner, within three (3) months of failure to achieve the TOC removals required by subdivision (2), for approval of alternative minimum TOC (Step 2) removal requirements submitted by the system as provided by subdivision (4). If the commissioner approves the alternative minimum TOC removal (Step 2) requirements, the commissioner may make those requirements retroactive for the purposes of determining compliance. Until the commissioner approves the alternate minimum TOC removal (Step 2) requirements, the system shall meet the Step 1 TOC removals contained in subdivision (2).

(4) Alternate minimum TOC removal (Step 2) requirements are as follows:

(A) Applications made to the commissioner by enhanced coagulation systems for approval of alternate minimum TOC removal (Step 2) requirements under subdivision (3) must include, at a minimum, results of bench-scale or pilot-scale testing conducted under clause (C). The submitted bench-scale or pilot-scale testing will be used to determine the alternate enhanced coagulation level.

(B) As used in this subdivision, "alternate enhanced coagulation level" means coagulation at a coagulant dose and pH as determined by the method described in clauses (A) through (E) such that an incremental addition of ten (10) milligrams per liter of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to three-tenths (0.3) milligram per liter. The percent removal of TOC at this point on the TOC removal versus coagulant dose curve is defined as the minimum TOC removal required for the system. Once approved by the agency, this minimum requirement supersedes the minimum TOC removal required by the table in subdivision (2). This requirement will be effective until the agency approves a new value based on the results of a new bench-scale and pilot-scale tests. Failure to achieve alternative minimum TOC removal levels is a violation of National Primary Drinking Water Regulations.

(C) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding ten (10) milligrams per liter increments of alum, or equivalent amounts of ferric salt, until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table:

Enhanced Coagulation Step 2 Target pH

Alkalinity (mg/L as $CaCO_3$)	Target pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(D) For waters with alkalinities of less than sixty (60) milligrams per liter for which the addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below five and five-tenths (5.5) before significant TOC removal occurs, the system shall add necessary chemicals to maintain the pH between five and three-tenths (5.3) and five and seven-tenths (5.7) in samples until the TOC removal of three-tenths (0.3) milligram per liter per ten (10) milligrams per liter alum added, or equivalant addition of iron coagulant, is reached.

(E) The system may operate at any coagulant dose or pH necessary, consistent with other National Primary Drinking Water Regulations, to achieve the minimum TOC percent removal approved under subdivision (3).

(F) If the TOC removal is consistently less than three-tenths (0.3) milligram per liter of TOC per ten (10) milligrams per liter of incremental alum dose at all dosages of alum (or equivalant addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the commissioner for a waiver of enhanced coagulation requirements.

(c) Compliance calculations are required as follows:

(1) Subpart H systems other than those identified in subsection (a)(2) or (a)(3) shall comply with requirements contained in subsection (b)(2) or (b)(3). Systems shall calculate compliance quarterly, beginning after the system has collected twelve (12) months of data, by determining an annual average using the following method:

STEP 1: Calculate actual monthly TOC percent removal, which is equal to:

(1 - (treated water TOC/source water TOC)) × one hundred (100).

STEP 2: Calculate the required monthly TOC percent removal (from either the table in subsection (b)(2) or from subsection (b)(3)).

STEP 3: Divide the value determined under STEP 1 by the value determined under STEP 2.

STEP 4: Add together the quotients determined under STEP 3 for the last twelve (12) months and divide by twelve (12).

STEP 5: If the quotient calculated in STEP 4 is less than one (1.00), the system is not in compliance with the TOC percent removal requirements.

(2) Systems may use the following provisions in lieu of the calculations in subdivision (1) to determine compliance with TOC percent removal requirements:

(A) In any month that the system's treated or source water TOC level, measured according to section 5(d)(3) of this rule, is less than two (2.0) milligrams per liter, the system may assign a monthly value of one (1.0) (in lieu of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(B) In any month that a system practicing softening removes at least ten (10) milligrams per liter of magnesium hardness (as $CaCO_3$), the system may assign a monthly value of one (1.0) (in lieu of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(C) In any month that the system's source water SUVA, prior to any treatment and measured according to section 5(d)(4) of this rule, is less than or equal to two (2.0) liters per milligram meter, the system may assign a monthly value of one (1.0) (in lieu of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(D) In any month that the system's finished water SUVA, measured according to section 5(d)(4) of this rule, is less than or equal to two (2.0) liters per milligram meter, the system may assign a monthly value of one (1.0) (in lieu of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(E) In any month that a system practicing enhanced softening lowers alkalinity below sixty (60) milligrams per liter (as $CaCO_3$), the system may assign a monthly value of one (1.0) (in lieu of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(3) Subpart H systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in subsection (a)(2) or (a)(3).

(d) The commissioner identifies the following as treatment techniques for Subpart H systems to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems:

(1) Conventional treatment.

(2) Enhanced coagulation.

(3) Enhanced softening.

(Water Pollution Control Board; 327 IAC 8-2.5-9)

SECTION 16. 327 IAC 8-2.6 IS ADDED TO READ AS FOLLOWS:

Rule 2.6. Enhanced Filtration and Disinfection

327 IAC 8-2.6-1 General requirements; enhanced filtration and disinfection

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 1. (a) Upon the effective date of this rule, unless otherwise specified in this section, all subpart H systems serving a population of at least ten thousand (10,000) individuals shall establish treatment technique requirements in lieu of maximum contaminant levels for the following contaminants:

(1) Giardia lamblia.

(2) Viruses.

(3) Heterotrophic plate count bacteria.

(4) Legionella.

(5) Cryptosporidium.

(6) Turbidity.

The systems shall also provide treatment of their source water that complies with these treatment technique requirements in addition to those identified in 327 IAC 8-2-8.5.

(b) The treatment technique requirements consist of installing and properly operating water treatment processes that reliably achieve the following:

(1) At least ninety-nine percent (99%) (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water run-off and a point downstream before or at the first customer for filtered systems, or Cryptosporidium control under the water shed control plan for unfiltered systems.

(2) Compliance with the profiling and benchmark requirements under section 2 of this rule.

(c) A public water system subject to the requirements of this section is considered to be in compliance with the requirements of subsections (a) and (b) if it meets the:

(1) disinfection requirements in 327 IAC 8-2-8.6 and section 2 of this rule; or

(2) applicable filtration requirements in either 327 IAC 8-2-8.5 or section 3 of this rule and the disinfection requirements in 327 IAC 8-2-8.6 and section 2 of this rule.

(d) Subpart H systems serving a population of greater than ten thousand (10,000) are not permitted to begin construction of uncovered finished water storage facilities after the effective date of this rule. *(Water Pollution Control Board; 327 IAC 8-2.6-1)*

327 IAC 8-2.6-2 Disinfection profiling and benchmarking

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 2. (a) A public water system subject to the requirements of this section shall meet the following monitoring requirements to determine its TTHM annual average and its HAA5 annual average. A public water system will determine its TTHM annual average using the procedure in subdivision (1) and its HAA5 annual average using the procedure in subdivision (2). The annual average is the arithmetic average of the quarterly averages of four (4) consecutive quarters of monitoring.

(1) The TTHM annual average must be the annual average during the same period as is used for the HAA5 annual average. Those subpart H systems serving a population of greater than ten thousand (10,000) individuals that:

(A) collected data under 40 CFR 141* must use the results of the samples collected during the last four (4) quarters of required monitoring under 40 CFR 141.142*;

(B) use grandfathered HAA5 occurrence data that meet the provisions of subdivision (2)(B) must use the TTHM data collected at the same time under 327 IAC 8-2-5(a) and 327 IAC 8-2-5.3; and

(C) use HAA5 occurrence data that meet the provisions of subdivision (2)(C)(i) must use the TTHM data collected at the same time under 327 IAC 8-2-5(a) and 327 IAC 8-2-5.3.

(2) The HAA5 annual average must be the annual average during the same period as is used for the TTHM annual average. Those subpart H systems serving a population of greater than ten thousand (10,000) individuals that:

(A) collected data under 40 CFR 141* must use the results of the samples collected during the last four (4) quarters of required monitoring under 40 CFR 141.142*;

(B) have collected four (4) quarters of HAA5 occurrence data that meets the routine monitoring sample number and location requirements for TTHM in 327 IAC 8-2-5(a) and 327 IAC 8-2-5.3 and handling and analytical method requirements of 40 CFR 141.142(b)(1)* may use those data to determine whether the requirements of this section apply; and

(C) have not collected four (4) quarters of HAA5 occurrence data that meets the provisions of either clause (A) or (B) by March 16, 1999, must either:

(i) conduct monitoring for HAA5 that meets the routine monitoring sample number and location requirements for TTHM in 327 IAC 8-2-5(a), 327 IAC 8-2-5.3, and handling and analytical method requirements of 40 CFR 141.142(b)(1)* to determine the HAA5 annual average and whether the requirements of subsection (b) apply. This monitoring must be completed so that the applicability determination can be made no later than March 31, 2000; or

(ii) comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with subsection (b).

(3) Subpart H systems serving a population of greater than ten thousand (10,000) individuals may request that the commissioner approve a more representative annual data set than the data set determined under subdivision (1) or (2) for the purpose of determining applicability of the requirements of this section.

(4) The commissioner may require that a system use a

more representative annual data set than the data set determined under subdivision (1) or (2) for the purpose of determining applicability of the requirements of this section.

(5) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall submit data to the commissioner based on the following schedules:

(A) Those subpart H systems serving a population of greater than ten thousand (10,000) individuals that collected TTHM and HAA5 data under 40 CFR 141*, as required by subdivisions (1)(A) and (2)(A), shall submit the results of the samples collected during the last twelve (12) months of monitoring required under 40 CFR 141.142* not later than December 31, 1999.

(B) Those subpart H systems serving a population of greater than ten thousand (10,000) individuals that have collected four (4) consecutive quarters of HAA5 occurrence data that meets the routine monitoring sample number and location for TTHM in 327 IAC 8-2-5(a), 327 IAC 8-2-5.3, and handling and analytical method requirements of 40 CFR 141.142(b)(1)*, as allowed by subdivisions (1)(B) and (2)(B), must submit those data to the commissioner not later than April 15, 1999. Until the commissioner has approved the data, the system shall conduct monitoring for HAA5 using the monitoring requirements specified under subdivision (2)(C).

(C) Subpart H systems serving a population of greater than ten thousand (10,000) individuals that conduct monitoring for HAA5 using the monitoring requirements specified by subdivision (2)(C)(i), shall submit TTHM and HAA5 data not later than March 31, 2000.

(D) Those systems that elect to comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with this section, as allowed under subdivision (2)(C)(ii), shall notify the commissioner in writing of their election not later than December 31, 1999.

(E) If the system elects to represent that the commissioner approve a more representative annual data set than the data set determined under subdivision (2)(A), the system must submit this request in writing not later than December 31, 1999.

(6) Any subpart H systems serving a population of greater than ten thousand (10,000) individuals having either a TTHM annual average greater than or equal to sixty-four thousandths (0.064) milligram per liter or an HAA5 annual average greater than or equal to forty-eight thousandths (0.048) milligram per liter during the period identified in subdivisions (1) and (2) shall comply with subsection (b).

(b) Disinfection profiling requirements are as follows:

(1) Any subpart H system serving a population of greater than ten thousand (10,000) individuals that meets the criteria in subsection (a)(6) shall develop a disinfection profile of its disinfection practice for a period of up to three (3) years.

(2) Not later than April 1, 2000, subpart H systems serving a population of greater than ten thousand (10,000) individuals shall monitor daily for a period of twelve (12) consecutive calendar months to determine the total logs of inactivation for each day of operation based on the CT99.9 values in Tables1.1 through 1.6, 2.1, and 3.1 of 40 CFR 141.74(b)*, as appropriate, through the entire treatment plant. At a minimum, subpart H systems serving a population of greater than ten thousand (10,000) individuals with a single or multiple point of disinfectant application prior to entrance to the distribution system shall conduct the monitoring in clauses (A) through (D) for each disinfection segment. The system shall monitor the parameters necessary to determine the total inactiavation ratio using analytical methods in 327 IAC 8-2-8.7 as follows:

(A) The temperature of the disinfection water shall be measured one (1) time per day at each residual disinfectant concentration sampling point during peak hourly flow.

(B) If the system uses chlorine, the pH of the disinfected water shall be measured one (1) time per day at each chlorine residual disinfectant concentration sampling point during peak hourly flow.

(C) The disinfectant contact time (T) shall be determined for each day during peak hourly flow.

(D) The residual disinfectant concentration (C) of the water before or at the first customer and prior to each additional point of disinfection shall be measured each day during peak hourly flow.

(3) In lieu of the monitoring conducted under subdivision (2) to develop the disinfection profile, subpart H systems serving a population of greater than ten thousand (10,000) individuals may elect to meet either of the following requirements:

(A) Not later than March 31, 2000, subpart H systems serving a population of greater than ten thousand (10,000) individuals that has three (3) years of existing operational data may submit those data, a profile generated using those data, and a request that the commissioner approve use of those data in lieu of monitoring under subdivision (2). The commissioner shall determine whether these operational data are substantially equivalent to data collected under subdivision (2) and whether these data are representative of Giardia lamblia inactivation through the entire treatment plant and not just of certain treatment segments. Until the commissioner approves this request, the system is required to conduct monitoring under subdivision (2).

(B) In addition to the disinfection profile generated under subdivision (2), subpart H systems serving a population of greater than ten thousand (10,000) individuals that has existing operational data may use

those data to develop a disinfection profile for additional years. Subpart H systems serving a population of greater than ten thousand (10,000) may use these additional yearly disinfection profiles to develop a benchmark under subsection (c). The commissioner shall determine whether these operational data are substantially equivalent to data collected under subdivision (2). These data must also be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

(4) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall calculate the total inactivation ratio as follows:

(A) If the system uses only one (1) point of disinfectant application, the system may determine the total inactivation ratio for the disinfection segment by using either of the following methods:

(i) Determine one (1) inactivation ratio ($CTcalc/CT_{99.9}$) before or at the first customer during peak hourly flow.

(ii) Determine successive $CTcalc/CT_{99.9}$ values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the system must calculate the total inactivation ratio by determining ($CTcalc/CT_{99.9}$) for each sequence and then adding the ($CTcalc/CT_{99.9}$) values together to determine (Σ ($CTcalc/CT_{99.9}$)).

(B) Subpart H systems serving a population of greater than ten thousand (10,000) individuals that use more than one (1) point of disinfectant application before the first customer shall determine the CT value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The ($CTcalc/CT_{99.9}$) value of each segment and (Σ ($CTcalc/CT_{99.9}$) shall be calculated using the method in clause (A).

(C) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall determine the total logs of inactivation by multiplying the value calculated in clause (A) or (B) by three (3.0).

(5) Subpart H systems serving a population of greater than ten thousand (10,000) individuals that use either chloramines or ozone for primary disinfection shall also calculate the logs of inactivation for viruses using a method approved by the commissioner.

(6) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall retain disinfection profile data in graphic form, as a spreadsheet, or in some other format acceptable to the commissioner for review as part of sanitary surveys conducted by the commissioner.

(c) Disinfection benchmarking requirements are as follows:

(1) A Subpart H system serving a population of greater than ten thousand (10,000) individuals required to develop a disinfection profile under subsections (a) and (b) that decides to make a significant change to its disinfection practice shall consult with the commissioner prior to making such change. As used in this subdivision, "significant changes" means the following:

(A) Changes to the point of disinfection.

(B) Changes to the disinfectants used in the treatment plant.

(C) Changes to the disinfection process.

(D) Any other modification identified by the commissioner.

(2) A subpart H system serving a population of greater than ten thousand (10,000) individuals that is modifying its disinfection practice shall calculate its disinfection benchmark using the following procedures:

(A) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall determine the lowest average monthly Giardia lamblia inactivation for each year of profiling data collected and calculated under subsection (b). The system shall determine the average Giardia lamblia inactivation for each calendar month for each year of profiling data by dividing the sum of daily Giardia lamblia inactivation by the number of values calculated for that month.

(B) The disinfection benchmark is the lowest monthly average value (for subpart H systems serving a population of greater than ten thousand (10,000) with one (1) year of profiling data) or average of lowest monthly average values (for subpart H systems serving a population of greater than ten thousand (10,000) individuals with more than one (1) year of profiling data) of the monthly logs of Giardia lamblia inactivation for each year of profiling data.

(C) Subpart H systems serving a population of greater than ten thousand (10,000) individuals that use either chloramines or ozone for primary disinfection shall also calculate the disinfection benchmark for viruses using a method approved by the commissioner.

(D) The system shall submit the following information to the commissioner as part of its consultation process:

(i) A description of the proposed change in disinfection practice.

(ii) The disinfection profile for Giardia lamblia (and, if necessary, viruses) under subsection (b) and benchmark as required by this subsection.

(iii) An analysis of how the proposed change will affect the current levels of disinfection.

*40 CFR 141, 40 CFR 141.142, 40 CFR 141.142(b)(1), and 40 CFR 141.74(b) are incorporated by reference and are available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana 46206. *(Water Pollution Control Board; 327 IAC 8-2.6-2)*

327 IAC 8-2.6-3 Enhanced filtration

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 3. By December 31, 2001, subpart H systems serving a population of greater than ten thousand (10,000) individuals shall provide treatment consisting of both disinfection, as specified in 327 IAC 8-2-8.6, and filtration treatment that complies with the following:

(1) Requirements for systems using conventional filtration or direct filtration are as follows:

(A) For Subpart H systems serving a population of greater than ten thousand (10,000) individuals using conventional filtration or direct filtration, the turbidity level of representative samples of the system's filtered water must be less than or equal to three-tenths (0.3) nephelometric turbidity unit in at least ninety-five percent (95%) of the measurements taken each month, measured as specified in 327 IAC 8-2-8.7 and 327 IAC 8-2-8.8.

(B) The turbidity level of representative samples of the system's filtered water must at no time exceed one (1) nephelometric turbidity unit, measured as specified in 327 IAC 8-2-8.7 and 327 IAC 8-2-8.8.

(C) A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the commissioner.

(2) A Subpart H system serving a population greater than ten thousand (10,000) may use filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration if it demonstrates to the commissioner, using pilot plant studies or other means, that the alternative filtration technology, in combination with disinfection treatment that meets the requirements of 327 IAC 8-2-8.6, consistently achieves ninety-nine and nine-tenths percent (99.9%) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) removal or inactivation of viruses, and ninety-nine percent (99%) removal of Cryptosporidium oocysts, and the commissioner approves the use of the filtration technology.

(3) For each approval under subdivision (2), the commissioner will set turbidity performance requirements that the system must meet at least ninety-five percent (95%) of the time and that the system may not exceed at any time at a level that consistently achieves ninety-nine and nine-tenths percent (99.9%) removal or inactivation of Giardia lamblia cysts, ninety-nine and ninety-nine hundredths percent (99.99%) removal or inactivation of viruses, and ninety-nine percent (99%) removal of Cryptosporidium oocysts.

(Water Pollution Control Board; 327 IAC 8-2.6-3)

327 IAC 8-2.6-4 Filtration sampling requirements

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 4. (a) In addition to monitoring required by 327 IAC 8-2-8.7, a Subpart H system serving a population of greater than ten thousand (10,000) individuals that provides conventional filtration treatment or direct filtration shall comply with the following:

(1) Conduct continuous monitoring of turbidity for each individual filter using an approved method in 327 IAC 8-2-8.7.

(2) Calibrate turbidimeters using the procedure specified by the manufacturer.

(3) Record the results of individual filter monitoring every fifteen (15) minutes.

(b) If there is a failure in the continuous turbidity monitoring equipment, Subpart H systems serving a population of greater than ten thousand (10,000) individuals must conduct grab sampling every four (4) hours in lieu of continuous monitoring, but for no more than five (5) working days following the failure of the equipment. *(Water Pollution Control Board; 327 IAC 8-2.6-4)*

327 IAC 8-2.6-5 Enhanced filtration and disinfection reporting and record keeping requirements

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: **IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11**

Sec. 5. Beginning January 1, 2002, a Subpart H system serving a population of greater than ten thousand (10,000) individuals that is subject to the requirements of section 3 of this rule and provides conventional filtration treatment or direct filtration shall meet the following requirements in addition to the reporting and record keeping requirements in 327 IAC 8-2-14:

(1) Turbidity measurements as required by section 3 of this rule shall be reported within ten (10) days after the end of each month the system serves water to the public. Information that shall be reported includes the following:

(A) The total number of filtered water turbidity measurements taken during the month.

(B) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in section 3 of this rule.

(C) The date and value of any turbidity measurements taken during the month that exceed:

(i) one and zero-tenths (1.0) nephelometric turbidity unit for systems using conventional filtration treatment or direct filtration; or

(ii) the maximum level set by the commissioner under section 3 of this rule. This reporting requirement is in lieu of the reporting specified in 327 IAC 8-2-14(b).

(2) Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall maintain the results of individual filter monitoring taken under section

4 of this rule for at least three (3) years. These systems shall report that they have conducted individual filter turbidity monitoring under section 3 of this rule within ten (10) days after the end of each month they serve water to the public if measurements demonstrate one (1) or more of the following conditions:

(A) For any individual filter that has a measured turbidity level of greater than one and zero-tenths (1.0) nephelometric turbidity unit in two (2) consecutive measurements taken fifteen (15) minutes apart, Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall report the filter number, the turbidity measurement, and the date on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within seven (7) days of the exceedance, if the system is not able to identify an obvious reason for the abnormal filter performance, and report that the profile has been produced or report the obvious reason for the exceedance.

(B) For any individual filter that has a measured turbidity level of greater than five-tenths (0.5) in two (2) consecutive measurements taken fifteen (15) minutes apart at the end of the first four (4) hours of continuous filter operation after the filter has been backwashed or otherwise taken off-line, Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall report the filter number, the turbidity, and the date on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within seven (7) days of the exceedance, if the system is not able to identify an obvious reason for the abnormal filter performance, and report that the profile has been produced or report the obvious reason for the exceedance.

(C) For any individual filter that has a measured turbidity level of greater than one and zero-tenths (1.0) nephelometric turbidity unit in two (2) consecutive measurements taken fifteen (15) minutes apart at any time in each of three (3) consecutive months, Subpart H systems serving a population of greater than ten thousand (10,000) shall report the filter number, the turbidity measurement, and the date on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within fourteen (14) days of the exceedance and report that the self-assessment was conducted. The self-assessment shall consist of at least the following components:

(i) Assessment of filter performance.

(ii) Development of a filter profile.

(iii) Identification and prioritization of factors limiting filter performance.

(iv) Assessment of the applicability of corrections.

(v) Preparation of a filter self-assessment report.

(D) For any individual filter that has a measured turbidity level of greater than two and zero-tenths (2.0) nephelometric turbidity units in two (2) consecutive measurements taken fifteen (15) minutes apart at any time in each of two (2) consecutive months, Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall report the filter number, the turbidity measurement, and the date on which the exceedance occurred. In addition, the system shall arrange for the conduct of a comprehensive performance evaluation by the commissioner or a third party approved by the commissioner no later than thirty (30) days following the exceedance and have the evaluation completed and submitted to the commissioner no later than ninety (90) days following the exceedance.

(3) Additional reporting requirements are as follows:

(A) If at any time the turbidity exceeds one and zero-tenths (1.0) nephelometric turbidity unit in representative samples of filtered water in a Subpart H system serving a population of greater than ten thousand (10,000) individuals using conventional filtration treatment or direct filtration, the system shall inform the commissioner as soon as possible, but no later than the end of the next business day.

(B) If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the commissioner under section 3 of this rule for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, Subpart H systems serving a population of greater than ten thousand (10,000) individuals shall inform the commissioner as soon as possible, but no later than the end of the next business day.

Systems that use lime softening may apply to the commissioner for alternative exceedance levels for the levels specified in subdivision (2) and this subdivision if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(Water Pollution Control Board; 327 IAC 8-2.6-5)

327 IAC 8-2.6-6 Filter backwash

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 6. All Subpart H systems that employ conventional filtration or direct filtration treatment and recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall meet the following requirements:

(1) A system shall notify the commissioner in writing by December 8, 2003, if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification shall include, at a minimum, the following information:

(A) A plant schematic showing:

(i) the origin of all flows which are recycled, including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes;

(ii) the hydraulic conveyance used to transport the spent filter backwash water, thickener supernatant, and liquids from dewatering processes; and

(iii) the location where spent filter backwash water, thickener supernatant, and liquids from dewatering processes are reintroduced back into the treatment plant.

(B) Typical recycle flow in gallons per minute.

(C) The highest observed plant flow experienced in the previous year in gallons per minute.

(D) Design flow for the treatment plant in gallons per minute.

(E) Commissioner-approved operating capacity for the plant where the commissioner has made such determinations.

(2) Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall return these flows through the processes of a system's existing conventional or direct filtration system as defined in 327 IAC 8-2-1(14) and 327 IAC 8-2-1(18), or at an alternate location approved by the commissioner by June 8, 2004. If capital improvements are required to modify the recycle location to meet the requirement in this subdivision, all capital improvements shall be completed no later than June 8, 2006.

(3) Subpart H systems shall collect and retain on file the following recycle flow information on forms provided by the department for review and evaluation by the commissioner beginning June 8, 2004:

(A) Copy of the recycle notification and information submitted to the commissioner under subdivision (1)(B) through (1)(E).

(B) List of all recycle flows and the frequency with which they are returned.

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(D) Typical filter run length and a written summary of how filter run length is determined.

(E) The type of treatment provided for the recycle flow.

(F) Data on the physical dimensions of the equalization and treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(Water Pollution Control Board; 327 IAC 8-2.6-6)

SECTION 17. THE FOLLOWING ARE REPEALED: 327 IAC 8-2-6; 327 IAC 8-2-29.

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 13, 2002 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed amendments to 327 IAC 8-2 and 327 IAC 8-2.1 and new rules 327 IAC 8-2.5 and 327 IAC 8-2.6. The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments and new rules. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Megan Wallace, Rules Section, Office of Water Quality, (317) 233-8669 or (800) 451-6027 (in Indiana). Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Tim Method
Deputy Commissioner
Office of Water Quality

TITLE 370 STATE EGG BOARD

Proposed Rule
LSA Document #01-419

DIGEST

Amends 370 IAC 1 concerning requirements for processing, transportation, and consumer container identification for shell eggs, including updating matters incorporated by reference. Adds a requirement for safe handling instructions for egg cartons. Makes other substantive and technical changes. Effective 30 days after filing with the secretary of state.

370 IAC 1-1-1
370 IAC 1-1-2
370 IAC 1-1-3
370 IAC 1-1-4
370 IAC 1-1-5
370 IAC 1-2-1
370 IAC 1-2-2
370 IAC 1-2-3
370 IAC 1-3-1
370 IAC 1-3-2
370 IAC 1-3-3
370 IAC 1-3-4
370 IAC 1-4-1
370 IAC 1-4-2
370 IAC 1-4-3
370 IAC 1-5-1
370 IAC 1-6-1
370 IAC 1-8-1
370 IAC 1-9-1
370 IAC 1-10-1
370 IAC 1-10-2

SECTION 1. 370 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-1 Applicability of state standards
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. The official Indiana standards for the quality of shell eggs contained in this ~~subpart~~ **rule** are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. *(State Egg Board; Reg 1, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 81; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 2. 370 IAC 1-1-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-2 Applicability of state standards to interstate or foreign commerce
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 2. ~~U. S. Public Law 91-597 91st Congress H. R., 19888, December 29, 1970~~ **The Egg Products Inspection Act (21 U.S.C. 1031 through 21 U.S.C. 1056)** provide, Sec. 23, (b) "For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official Federal standards, **(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, federal requirements,** and (3) no state or local jurisdiction other than those in **noncontiguous** areas of the United States may require labeling to show the state or other geographical area of production or origin: Provided, however, that this shall not preclude a state from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container.". *(State Egg Board; Reg 1, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 3. 370 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-3 Uniform grade standards; adoption of federal standards
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 3. Therefore in the interest of maintaining uniform grade standards in ~~the State of~~ Indiana, the state egg board hereby adopts the ~~U.S.~~ **United States** Standards, Grades, and Weight Classes for Shell Eggs promulgated by the ~~U.S.~~ **United States** Department of Agriculture ~~(7 CFR Part~~ **(AMS** 56) as the official standards for quality, grade, and weight classes for ~~the State of~~ Indiana, including (7 CFR ~~Part 59)~~ **57)** Regulations Governing the Inspection of Eggs. ~~and Egg Products.~~ *(State Egg Board; Reg 1, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; errata, 9 IR 779; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 4. 370 IAC 1-1-4 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-4 Candling; Haugh unit value
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 4. ~~Candling.~~ Interior egg quality specifications for ~~these standards~~ **this section** are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable consistently accurate determination of the interior quality of shell eggs. It is desirable to break out an occasional egg and to determine the Haugh unit value of the broken out and candled appearance thereby aiding in correlating candled and broken out appearance. *(State Egg Board; Reg 1, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 5. 370 IAC 1-1-5 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-5 Haugh measurements
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 5. ~~Haugh Measurements.~~ Specifications for measuring the thick albumen condition is based on the use of a specially designed micrometer or slide rule to determine the relationship between the weight of an egg and the height of the thick white. The readings are taken in units ranging from **zero** (0) to **one hundred** (100) after the egg has been broken out on a flat ~~glass~~ surface. *(State Egg Board; Reg 1, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 6. 370 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-2-1 Temperature requirements; dealer facilities
Authority: IC 16-42-11-5
Affected: IC 16-42-11

Sec. 1. Every registered person, partnership, firm, or corporation permitted to handle or sell eggs under the provisions of ~~IC 16-6-1~~ **IC 16-42-11** shall, upon delivery, provide adequate space and storage facilities to hold shell eggs at an ambient temperature of forty-five **(45)** degrees Fahrenheit ~~(45° F)~~ or below. *(State Egg Board; Reg 2, Title I, Sec 1; filed Aug 14, 1973,1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1775; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 7. 370 IAC 1-2-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-2-2 Temperature requirements; retail stores
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 2. Upon delivery, shell eggs at the retail store shall be stored and displayed at an ambient temperature of forty-five **(45)** degrees Fahrenheit ~~(45° F)~~ or below. *(State Egg Board; Reg 2, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 8. 370 IAC 1-2-3 IS ADDED TO READ AS FOLLOWS:

370 IAC 1-2-3 Temperature requirements; transportation
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 3. All eggs packed in containers for the purpose of resale to consumers shall be transported under refrigeration at an ambient temperature no greater than forty-five (45) degrees Fahrenheit or seven and two-tenths (7.2) degrees Celsius. *(State Egg Board; 370 IAC 1-2-3)*

SECTION 9. 370 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-1 Wholesale packaging and labeling
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. The eggs shall be sold at wholesale in cases, boxes, or containers ~~which~~ **that** shall be plainly labeled as:

(1) Grade AA, Grade A, or Grade B; and ~~as~~

(2) to size, "Jumbo", "Extra Large", "Large", "Medium", "Small", or "Pee Wee";

according to standards of quality and size established in this article. *(State Egg Board; Reg 3, Title I, Sec 1, filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 10. 370 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-2 Consumer packages; date requirements
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 2. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall:

(1) be legibly dated (month and day or consecutive day of the year) the day the eggs were packed; and ~~shall~~

(2) bear an expiration date of no more than thirty (30) days from date of pack, excluding date of pack.

Shell eggs labeled AA shall bear in distinctly legible form an expiration date of no more than ten (10) days from date of pack excluding date of pack. The expiration date shall be stated as the month and day, for example, April 3 or 4-3, preceded by the letters "EXP" or "SELL BY". Quality is best if sold by the expiration date. *(State Egg Board; Reg 3, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1225; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 11. 370 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-3 Consumer packages; packer identification
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 3. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall be labeled with one (1) of the following means of identification:

(1) Name and address of packer.

(2) Indiana state egg license number, **for example, IN-000.**

(3) United States Department of Agriculture plant number, **for example, P-000.**

(4) Egg license number from another state, provided the number is on file in writing at the state egg board office.

(5) United States Department of Agriculture Shell Egg Surveillance number, including state code and handler code, for example, 18-0000. Note: The Shell Egg Surveillance registrant number contains a state code, county code, and handler code. Do not include the county code, only state and handler number.

All eggs offered for sale in cases, boxes, or cartons shall

contain labeling ~~which~~ **that** indicates refrigeration is required. **Additionally, all cartons of shell eggs shall bear the statement, "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.". The statement shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type. The statement shall be set off in a box by use of hairlines. Shell eggs that have been specifically processed to destroy all viable salmonella shall be exempt from this requirement.** *(State Egg Board; Reg 3, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 12. 370 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-4 Restricted eggs; definition; labeling
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 4. (a) ~~Public Law 91-597~~ **Regulations Governing the Inspection of Eggs (7 CFR 57)** requires that eggs classed as restricted eggs, dirties, checks, leakers, ~~inedibles,~~ **and** loss and incubator rejects as well as graded eggs, exceeding the tolerances allowed for restricted eggs in United States Grade B standards must be labeled with certain required information. (Leakers **and** loss ~~inedibles,~~ and incubator rejects must also be denatured or decharacterized at the point of grading.) Labeling must be legible and conspicuous. The name and address of the packer must appear on each case or label.

(b) Examples of labeling shall be as follows:

Restricted Eggs for Processing
Only in an Official USDA
Egg Products Plant.
Name_____
Address_____Zip____

Dirty and Checked Eggs for
Processing Only in an Official
USDA Egg Products Plant.
Name_____
Address_____Zip____

(c) Labeling for loss, leakers, ~~inedibles,~~ and incubator rejects shall be as follows:

Restricted Eggs.
Not to be Used as Human Food.
Name_____
Address_____Zip_____

Denatured Inedible Egg Products.
Not to be Used as Human Food.

Name_____
Address_____Zip_____

(State Egg Board; Reg 3, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 13. 370 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

Rule 4. Inspection and Noncompliance

370 IAC 1-4-1 Inspection
Authority: IC 16-42-11-5
Affected: IC 16-6-1-2; IC 16-42-11-12

Sec. 1. All inspectors named by the ~~Director~~ **dean of agriculture** of ~~the~~ Purdue University ~~Agricultural Experiment Station~~ as provided for in this ~~act;~~ **article,** shall, in the inspection of eggs, be governed by the rules ~~and regulations~~ of the state egg board, ~~These rules and regulations are to include~~ **including** the standards of quality and weight. *(State Egg Board; Reg 4, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 14. 370 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-4-2 Removal of below standard eggs
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 2. Shell eggs offered for sale at retail or wholesale and found to be below the minimum standards and requirements of quality ~~and/or~~ **or** weight, **or both,** for grade and size marked, shall be removed at the time of inspection. *(State Egg Board; Reg 4, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 15. 370 IAC 1-4-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-4-3 Violations; inspectors' duties
Authority: IC 16-42-11-5
Affected: IC 16-6-1-2; IC 16-42-11-12

Sec. 3. The state egg board hereby requests the shell egg inspectors to follow the procedure outlined ~~below~~ **as follows** when **the** product is found in violation of this ~~act.~~ **article:**

(1) Discuss **the** problem with parties involved and request their cooperation in removing product from sale.

(2) Call **the** state office when cooperation with the parties involved is not received.

(3) Prepare **the** report in writing to the state egg board giving details of **the** violation and disposition of **the** product, with **a** copy to **the** party or parties involved in **the** violation.

(State Egg Board; Reg 4, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 16. 370 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-5-1 Advertisements
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. At retail, if the price is quoted, all quotations or advertising of any kind by any media connected with the sale of eggs by registrants of this ~~act,~~ **article,** shall plainly state the grade and size of the eggs so priced in such quotations or advertisements. *(State Egg Board; Reg 5, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 17. 370 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-6-1 Grade and size identification
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. **(a)** All packages, of whatever kind, in which eggs are offered for sale by registrants under this article shall be marked as:

(1) Grade AA;
(2) Grade A; or
(3) Grade B.

(b) All packages bearing the grade mark shall be identified as to size by:

(1) Jumbo;
(2) Ex-Large;
(3) Large;
(4) Medium;
(5) Small; or
(6) Pee Wee.

(State Egg Board; Reg 6, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 18. 370 IAC 1-8-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-8-1 Fresh eggs
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. Fresh eggs shall meet the minimum standards and requirements of quality and weight under 370 IAC 1-1-3 for:

(1) Indiana Grade AA;
(2) Indiana Grade A; or
(3) Indiana Grade B;

eggs. *(State Egg Board; Reg 8, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 85; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 19. 370 IAC 1-9-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-9-1 Record keeping by wholesalers
Authority: IC 16-42-11-5
Affected: IC 16-42-11-10

Sec. 1. (a) All wholesalers shall keep such records as necessary to indicate accurately the case **(thirty** (30) dozen) volume of shell eggs sold in Indiana. These records shall include **the following:**

(1) Invoices showing purchases and sales of shell eggs.

(2) A sales ledger showing all egg sales made at wholesale in Indiana to any retailer, hotel, restaurant, hospital, school, nursing home, **or** state or federal institution.

(3) A cumulative summary of sales made in Indiana.

(b) The ~~above~~ records **required in subsection (a)** shall be retained by the wholesaler for a period of one **(1)** calendar year exclusive of the current operating quarter. *(State Egg Board; 370 IAC 1-9-1; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 20. 370 IAC 1-10-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-10-1 Shell egg packers
Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. (a) This section establishes minimum sanitation and operating requirements for shell egg grading plants engaged in grading, storage, packaging, and distribution of eggs.

(b) Buildings shall be of sound construction so as to prevent the entrance or harboring of vermin.

(c) All areas and rooms in which eggs are handled, graded, and packed shall be kept clean.

(d) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean, sanitary condition.

(e) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water should be potable and maintained at a temperature of ninety **(90)** degrees Fahrenheit ~~(90°F)~~ minimum. The wash water temperature must be at least twenty **(20)** degrees Fahrenheit ~~(20°F)~~ greater than the egg temperature. The wash water shall be replaced frequently, a minimum of once a day, and the detergent and sanitizer shall be kept at an effective level at all times.

(f) During any rest period, or at anytime when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a build-up of heat.

(g) Only ~~the United States Department of Agriculture or federally~~ approved cleaning and sanitizing compounds may be used ~~Current list of proprietary substances and nonfood compounds.~~ **in shell egg processing plants. To assure that only compounds are used for the purpose intended, plant management must provide the inspector, upon request, with a written guaranty stating that each compound used in the shell egg processing plant complies with federal food laws and regulations, and can be legally used in the shell egg processing plant for the purpose intended.** Washed eggs shall be reasonably dry before containing or casing. *(State Egg Board; 370 IAC 1-10-1; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1226; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

SECTION 21. 370 IAC 1-10-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-10-2 Retailers and wholesalers

Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 2. (a) This section establishes minimum sanitation requirements for retailers and wholesalers.

(b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors ~~which~~ **that** could affect the quality or taste of eggs.

(c) All storage areas where eggs are held must be maintained in a clean and sanitary condition. *(State Egg Board; 370 IAC 1-10-2; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1778; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 6, 2002 at 9:30 a.m., at Purdue University, Purdue Memorial Union, Room 258,West Lafayette, Indiana the State Egg Board will hold a public hearing on proposed amendments concerning requirements for processing, transportation, and consumer container identification for shell eggs, including updating matters incorporated by reference. Adds a requirement for safe handling instructions for egg cartons. Makes other substantive and technical changes. Copies of these rules are now on file at the State Egg Board, Purdue University, Poultry Building, Room 101, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David J. Steen
Executive Administrator
State Egg Board

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-214

DIGEST

Amends 405 IAC 1-16-2 to specify the payment level for hospice services on the date that an individual is discharged from inpatient or respite hospice care. Amends 1-16-4 to specify that, in order to receive Medicaid reimbursement for room and board for nursing home residents receiving hospice services, the hospice must have a written agreement with the nursing facility. Amends 405 IAC 5-34-1 to specify that the hospice provider must provide all services in compliance with the Medicaid provider agreement, the appropriate provider manual and all other Medicaid policy documents issued to provider at the time services were rendered, and any applicable state or federal statute or regulations. Amends 405 IAC 5-34-2 to specify licensure and certification requirements for Medicaid hospice providers. Amends 405 IAC 5-34-3 to specify the requirements for Medicaid reimbursement for hospice services provided by out of state hospice providers. Amends 405 IAC 5-34-4 to specify the requirements for obtaining authorization for hospice services. Adds 405 IAC 5-34-4.1 regarding appeals of hospice authorization determinations. Adds 405 IAC 5-34-4.2 to provide for retrospective audit of hospice services including review for medical necessity. Amends 405 IAC 5-34-5 to specify requirements relating to the hospice physician certification form. Amends 405 IAC 5-34-6 to specify requirements

relating to election and revocation of hospice services. Amends 405 IAC 5-34-7 to specify requirements relating to the hospice plan of care. Effective 30 days after filing with the secretary of state.

405 IAC 1-16-2
405 IAC 1-16-4
405 IAC 5-34-1
405 IAC 5-34-2
405 IAC 5-34-3
405 IAC 5-34-4
405 IAC 5-34-4.1
405 IAC 5-34-4.2
405 IAC 5-34-5
405 IAC 5-34-6
405 IAC 5-34-7

SECTION 1. 405 IAC 1-16-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-16-2 Levels of care

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 2. (a) Reimbursement for hospice care shall be made according to the methodology and amounts calculated by the **Centers for Medicare and Medicaid Services (CMS), formerly the** Health Care Financing Administration (HCFA). Medicaid hospice reimbursement rates are based on Medicare reimbursement rates and methodologies, adjusted to disregard offsets attributable to Medicare coinsurance amounts. The rates will be adjusted for regional differences in wages using the geographical areas defined by ~~HCFA~~ **CMS** and hospice wage index published by ~~HCFA.~~ **CMS.**

(b) Medicaid reimbursement for hospice services will be made at one (1) of four (4) all-inclusive per diem rates for each day in which a Medicaid recipient is under the care of the hospice provider. The reimbursement amounts are determined within each of the following categories:

(1) Routine home care.
(2) Continuous home care.
(3) Inpatient respite care.
(4) General inpatient hospice care.

(c) The hospice will be paid at the routine home care rate for each day the recipient is at home, under the care of the hospice provider, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day.

(d) Continuous home care is to be provided only during a period of crisis. A period of crisis is defined as a period in which a patient requires continuous care that is primarily nursing care to achieve palliation and management of acute medical symptoms. Care must be provided by either a registered nurse or a licensed practical nurse, and a nurse must provide care for over half the total period of care. A minimum of eight (8) hours of care must be provided during a twenty-four (24) hour day that begins and ends at midnight. This care need not be continuous and uninterrupted. The continuous home care rate is divided by twenty-four (24) hours in order to arrive at an hourly rate. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice provider for up to twenty-four (24) hours a day.

(e) The hospice provider will be paid at the inpatient respite care rate for each day that the recipient is in an approved inpatient facility and is receiving respite care. Respite care is short term inpatient care provided to the recipient only when necessary to relieve the family members or other persons caring for the recipient. Respite care may be provided only on an occasional basis. Payment for respite care may be made for a maximum of five (5) consecutive days at a time, including the date of admission, but not counting the date of discharge. Payment for the sixth and any subsequent days is to be made at the routine home care rate.

(f) Subject to the limitations in section 3 of this rule, the hospice provider will be paid at the general inpatient hospice rate for each day the recipient is in an approved inpatient hospice facility and is receiving services related to the terminal illness. The recipient must require general inpatient care for pain control or acute or chronic symptom management that cannot be managed in other settings. Documentation in the recipient's record must clearly explain the reason for admission and the recipient's condition during the stay in the facility at this level of care. No other fixed payment rate (i.e., routine home care) will be made for a day on which the patient receives general hospice inpatient care. Services provided in the inpatient setting must conform to the hospice patient's plan of care. The hospice provider is the professional manager of the patient's care, regardless of the physical setting of that care or the level of care. If the inpatient facility is not also the hospice provider, the hospice provider must have a contract with the inpatient facility delineating the roles of each provider in the plan of care.

(g) When routine home care or continuous home care is furnished to a recipient who resides in a nursing facility, the nursing facility is considered the recipient's home.

(h) Reimbursement for inpatient respite care is available only for a recipient who resides in a private home. Reimbursement for inpatient respite care is not available for a recipient who resides in a nursing facility.

(i) When a recipient is receiving general inpatient or inpatient respite care, the applicable inpatient rate (general or respite) is paid for the date of admission and all subsequent inpatient days, except the day on which the patient is discharged. For the day of discharge, the appropriate home care rate is paid unless the patient dies as an inpatient. In the case where the member is discharged deceased, the applicable inpatient rate (general or respite) is paid for the date of discharge. *(Office of the Secretary of Family and Social*

Services; 405 IAC 1-16-2; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2377; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 2. 405 IAC 1-16-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-16-4 Additional amount for nursing facility residents

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 4. (a) An additional per diem amount will be paid directly to the hospice provider for room and board of hospice residents in a certified nursing facility receiving routine or continuous care services, **when the office has determined that the recipient requires nursing facility level of care**. **Medicaid reimbursement is available for hospice services rendered to a nursing facility resident only if, prior to services being rendered, the hospice and the nursing facility enter into a written agreement under which the hospice takes full responsibility for the professional care management of the resident's hospice care and the nursing facility agrees to provide room and board to the individual.** In this context, "room and board" includes all assistance in the activities of daily living, socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies.

(b) The room and board rate will be ninety-five percent (95%) of the lowest per diem reimbursement rate Indiana Medicaid would have paid to the nursing facility for any resident for those dates of service on which the recipient was a resident of that facility.

(c) Medicaid payment to the nursing facility for nursing facility care for the hospice resident is discontinued when the resident makes an election to receive hospice care. Any payment to the nursing facility for furnishing room and board to hospice patients is made by the hospice provider under the terms of its agreement with the nursing facility.

(d) The additional amount for room and board is not available for recipients receiving inpatient respite care or general inpatient care. *(Office of the Secretary of Family and Social Services; 405 IAC 1-16-4; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2378; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 3. 405 IAC 5-34-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-1 Policy

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 1. (a) Medicaid reimbursement is available for hospice services subject to the limitations in this rule and 405 IAC 1-16. Hospice services consist of the following:

(1) Palliative care for the physical, psychological, social, spiritual, and other special needs of a hospice program patient during the final stages of the patient's terminal illness.
(2) Care for the psychological, social, spiritual, and other needs of the hospice program patient's family before and after the patient's death.

(b) In order to receive Medicaid reimbursement for hospice services, a hospice provider must meet the requirements of section 2 of this rule.

(c) Notwithstanding any prior approval by the office, the provision of all services shall comply with the Medicaid provider agreement, the appropriate provider manual applicable at the time such services were provided, all other Medicaid policy documents issued to providers, and any applicable state or federal statute or regulation. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-1; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2379; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 4. 405 IAC 5-34-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-2 Provider enrollment

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15; IC 16-25-3

Sec. 2. (a) In order to enroll as a hospice provider in the Indiana Medicaid program, a provider must submit a provider enrollment agreement as specified in 405 IAC 5-4. A separate provider agreement for hospice services must be completed even if the provider currently participates in the Indiana Medicaid program as a provider of another service.

(b) A hospice provider must be certified as a hospice provider in the Medicare program. A copy of the provider's Medicare Certification Letter from **the Centers for Medicare and Medicaid Services (CMS), formerly** the Health Care Financing Administration, must be submitted with the Medicaid provider enrollment agreement. **The hospice provider who operates at more than one (1) location must provide a copy of the Medicare Certification Letter from CMS that demonstrates that the regional office has approved each additional office location to be Medicare-certified as a either a satellite office of the home office location or as a separate hospice with its unique Medicare provider number.**

(c) The provider must comply with all state and federal requirements for Medicaid **and Medicare** providers in addition to the requirements in this section. **The hospice and all hospice employees must be licensed in accordance with applicable federal, state, and local laws and regulations as required under federal regulations at 42 CFR 418.72 and Indiana state hospice licensure at IC 16-25-3.**

(d) The hospice provider must designate an interdisciplinary

group composed of individuals who are employees of the hospice and who provide or supervise care and services offered by the hospice provider. At a minimum, this group must include all of the following persons:

(1) A medical director, who must be a doctor of medicine or osteopathy.
(2) A registered nurse.
(3) A social worker.
(4) A pastoral or other counselor.

(e) The interdisciplinary group is responsible for the following:
(1) Participation in the establishment of the plan of care.
(2) Provision or supervision of hospice care and services.
(3) Review and updating of the plan of care.
(4) Establishment of policies governing the day-to-day provision of care and services.

(f) A hospice provider may not discontinue or diminish care provided to the Indiana Medicaid recipient because of the recipient's source of payment.

(g) The provider must demonstrate respect for a recipient's rights by ensuring that the election of hospice services is based on the informed, voluntary consent of the recipient or the recipient's representative.

(h) A hospice provider may discharge a recipient from hospice services only if one (1) or more of the following occurs:
(1) The recipient dies.
(2) The recipient is determined to have a prognosis greater than six (6) months.
(3) The recipient moves out of the hospice's service area.
(4) The safety of the recipient, other patients, or hospice staff is compromised.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-2; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 5. 405 IAC 5-34-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-3 Out-of-state providers

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 3. (a) Subject to the conditions in this section **and section 2 of this rule**, and any applicable state or federal licensing laws or regulations, an Indiana resident may receive hospice services from an out-of-state hospice provider if the provider is:

(1) located in a designated out-of-state city listed in 405 IAC 5-5-2(a); and
(2) enrolled in the Indiana Medicaid program.

(b) Prior authorization may be granted for an Indiana resident to receive hospice services from an out-of-state hospice provider not located in a designated out-of-state city if any one of the criteria listed at 405 IAC 5-5-2(c) is met.

~~(b)~~ **(c)** Routine home care and continuous home care hospice services may be provided by out-of-state hospice providers to Indiana residents in their own home or in a nursing facility located in Indiana.

~~(c)~~ **(d)** Inpatient respite care and general inpatient care hospice services may be provided in an out-of-state hospice provider's facility.

~~(d)~~ **(e)** Routine home care and continuous home care hospice services cannot be provided to an Indiana resident in a nursing facility outside of Indiana, even if the nursing facility is located in an out-of-state designated city listed in 405 IAC 5-5-2(a). *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-3; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 6. 405 IAC 5-34-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-4 Hospice authorization and benefit periods

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 4. (a) Hospice services require ~~prior approval~~ **Medicaid hospice authorization** by the office or its contractor. ~~In order~~ **Medicaid reimbursement is not available for hospice services furnished without authorization.**

(b) To ~~obtain prior approval~~ **request hospice authorization for Medicaid-only eligible recipients for each hospice benefit period,** the provider must submit all of the following ~~as detailed in this rule~~ **documentation on forms approved by the office:**

(1) **Medicaid** recipient election statement.
(2) **Medicaid** physician certification.
(3) **Medicaid** plan of care.

(c) Dually-eligible Medicare/Medicaid recipients residing in nursing facilities who elect hospice benefits must enroll simultaneously in the Medicare and Medicaid hospice benefits. To obtain hospice authorization, the hospice provider must submit the following forms as approved by the office for a one (1) time enrollment in the Medicaid hospice benefit:

(1) Medicaid Hospice Authorization Notice for Dually-Eligible Medicare/Medicaid Nursing Facility Residents.

(2) A copy of the hospice agency form reflecting the recipient's election of the Medicare hospice benefit. The form must reflect the signature of the recipient or the recipient's representative and the date on which the form was signed.

The hospice provider is required to resubmit the forms

described in this subsection when a dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility reelects the Medicare and the Medicaid hospice benefit following a previous hospice revocation or hospice discharge.

(d) Hospice authorization is not required for the dually-eligible Medicare/Medicaid hospice recipient residing at home as Medicare is reimbursing for the hospice care.

~~(b)~~ **(e)** Hospice ~~eligibility~~ **authorization for the Medicaid-only hospice recipient** is available in the following consecutive benefit periods:

(1) One (1) period of ninety (90) days.

(2) A second period of ninety (90) days.

(3) An unlimited number of periods of sixty (60) days.

~~(c) Approval~~ **(f) Hospice authorization** must be granted separately for each benefit period **for the Medicaid-only hospice recipient.** If benefit periods beyond the first ninety (90) days are necessary, then recertification on the physician certification form and an updated plan of care are required for ~~prior approval~~ **authorization** of the second and subsequent benefit periods. **For the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility, hospice authorization is granted one (1) time at the time of enrollment in the Medicaid hospice benefit. Hospice authorization is not required for each hospice benefit period. Hospice authorization is required when the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility reelects the Medicare and the Medicaid hospice benefit following a previous hospice revocation or hospice discharge.**

(g) In order to obtain authorization and reimbursement for hospice services, the provider must submit the documentation listed in this section to the office or its contractor within ten (10) business days of the effective date of the recipient's election, and within ten (10) business days of the beginning of the second and subsequent benefit periods if required under this section.

(h) When there is insufficient information submitted to render a hospice authorization decision or the documentation contains errors, a hospice authorization request will be suspended for thirty (30) days and the office or its contractor will request additional information from the provider. The provider must make the corrections and resubmit the proper documentation to the office or its contractor within thirty (30) calendar days after the additional information or correction is requested. If the provider fails to resubmit the documentation with the appropriate corrections within the thirty (30) day time period, the request for hospice authorization will be denied. If the provider submits additional documentation within thirty (30) days, but the documentation submitted does not provide sufficient information to render a decision, the office or its contractor may request additional information. The provider must submit the additional information within thirty (30) days after the additional information is requested. If the provider fails to submit the requested information within the additional thirty (30) days, or if the additional documentation does not provide sufficient information to render a decision, the request for hospice authorization will be denied.

(i) If a request for hospice authorization or supporting documentation are submitted after the time limits in this section, authorization may be granted only for services provided on or after the date that the request is received. Authorization for services furnished prior to the date of a request that does not comply with the time limits in this section may be granted only under the following circumstances:

(1) Pending or retroactive recipient eligibility. The hospice authorization request must be submitted within twelve (12) months of the date of the issuance of the recipient's Medicaid card.

(2) The provider was unaware that the recipient was eligible for services at the time services were rendered. Hospice authorization will be granted in this situation only if the following conditions are met:

(A) The provider's records document that the recipient refused or was physically unable to provide the recipient identification (RID or Medicaid) number.

(B) The provider can substantiate that the provider continually pursued reimbursement from the patient until Medicaid eligibility was discovered.

(C) The provider submitted the request for prior authorization within sixty (60) days of the date Medicaid eligibility was discovered.

(3) Pending or retroactive approval of nursing facility level of care. The hospice authorization request must be submitted within one year of the date nursing facility level of care is approved by the office.

(j) The office will rely on current professional standards, including the local Medicare medical review policies for hospice services, in making the hospice authorization determination.

~~(d)~~ **(k)** When approval for a benefit period has been granted, a hospice provider may manage a patient's care at the four (4) levels of care according to the medical needs determined by the interdisciplinary team and the requirements of the patient and the patient's family or primary caregivers. Changes in levels of care do not require prior approval as long as these levels are rendered within a prior approved hospice benefit period. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-4; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2380; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 7. 405 IAC 5-34-4.1 IS ADDED TO READ AS FOLLOWS:

405 IAC 5-34-4.1 Appeals of hospice authorization determinations

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40-8
Affected: IC 12-15

Sec. 4.1. (a) Medicaid recipients may appeal the denial or modification of hospice authorization under 405 IAC 1.1.

(b) Any provider submitting a request for hospice authorization under this rule, which has been denied either in whole or in part, may appeal the decision under 405 IAC 1.1 after first submitting a request for reconsideration of the hospice authorization in accordance with the procedures set out in 405 IAC 5-7-2 and 405 IAC 5-7-3 for administrative reconsideration of prior authorization decisions.

(c) When there is insufficient information submitted to render a decision, or the documentation contains errors, a hospice authorization request will be suspended pursuant to section 4 of this rule, and the office or its contractor will request additional information from the provider. Suspension is not a final decision on the merits of the request and is not appealable. If the provider does not submit sufficient information within the time frames set out in section 4(h) of this rule, the request shall be denied. Denial is a final decision and may be appealed pursuant to subsections (a) and (b). *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-4.1)*

SECTION 8. 405 IAC 5-34-4.2 IS ADDED TO READ AS FOLLOWS:

405 IAC 5-34-4.2 Audit

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40-8
Affected: IC 12-15

Sec. 4.2. (a) The office or its contractor may conduct audits of hospice services, including services for which hospice authorization has been granted. Audit of hospice services shall include review of the medical record to determine the medical necessity of services based upon applicable current professional standards, including the local Medicare medical review policies for hospice services.

(b) If the office determines that hospice services for a member are not medically necessary, hospice authorization will be revoked for the dates during which hospice services did not meet medical necessity criteria for hospice care. Medicaid payment for hospice services is not available for services that the office determines are not medically necessary. *Office of the Secretary of Family and Social Services; 405 IAC 5-34-4.2)*

SECTION 9. 405 IAC 5-34-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-5 Physician certification

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 5. (a) In order for an individual to receive Medicaid-covered hospice services, a physician must certify **in writing** that the individual is terminally ill and expected to die from that illness within six (6) months. **For a dually eligible Medicaid/Medicare recipient, the hospice provider must comply with Medicare physician certification requirements, but the provider is not required to complete the Medicaid physician certification form or to submit the physician certification to the office. For a Medicaid-only hospice recipient, the Medicaid physician certification form must be completed and submitted to office as set out in this section.**

(b) **As required by federal regulations,** the certification in subsection (a) must:

(1) be completed **for the first period of ninety (90) days** by:

(A) the medical director of the hospice program or **the physician member of the hospice interdisciplinary group; and**

(B) ~~the physician member of the disciplinary group and~~ the recipient's attending physician if the recipient has an attending physician;

(2) be completed by one (1) of the physicians listed in subdivision(1)(A) for the second and subsequent periods;

~~(2)~~ **(3)** be signed and dated;

~~(3)~~ **(4)** identify the diagnosis that prompted the individual to elect hospice services;

~~(4)~~ **(5)** include a statement that the prognosis **for life expectancy** is six (6) months or less; and

~~(5)~~ **(6)** be submitted to the office or its designee within the timeframes in subsection (c).

(c) The **Medicaid** physician certification must be submitted for the first period within ten (10) business days of the effective date of the **Medicaid-only** recipient's election. For the second and subsequent periods, the **Medicaid** physician certification must be submitted within ten (10) business days of the beginning of the benefit period.

(d) For the Medicaid-only hospice recipient, the Medicaid physician certification form must be included in the recipient's medical chart in the hospice agency and the recipient's medical chart in the nursing facility. *(Office of the Secretary of Family and Social Services; 405 IAC 5-34-5; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2381; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 10. 405 IAC 5-34-6 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-6 Election of hospice services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 6. (a) In order to receive hospice services, a recipient must elect hospice services by filing an election statement with the hospice provider on forms specified by the office.

(b) Election of the hospice benefit requires the recipient to waive Medicaid coverage for the following services:

(1) Other forms of health care for the treatment of the terminal illness for which hospice care was elected, or for treatment of a condition related to the terminal illness.

(2) Services provided by another provider which are equivalent to the care provided by the elected hospice provider.

(3) Hospice services other than those provided by the elected hospice provider or its contractors.

(c) The recipient or recipient's representative may designate an effective date for the election that begins with the first day of hospice care or any other subsequent day of hospice care. The individual may not designate an effective date that is earlier than the date of election.

(d) **For Medicaid-only hospice recipient, the Medicaid** election form must be submitted to the office or its designee along with the **Medicaid** physician's certification required by section 5 of this rule when hospice services are initiated. It is not necessary to submit the **Medicaid** election form for the second and subsequent benefit periods unless the recipient has revoked the election and wishes to reelect hospice care.

(e) For the dually-eligible Medicare/Medicaid hospice recipient residing in the nursing facility, the hospice agency election form reflecting the Medicare hospice election date and the recipient's signature must be submitted with the Medicaid hospice authorization form for dually-eligible Medicare/Medicaid nursing facility residents. It is not necessary to submit the Medicare election form for the second and subsequent benefit periods unless the recipient has revoked the election and wishes to reelect hospice care under the Medicare and Medicaid hospice benefits.

~~(c)~~ **(f)** In the event that a recipient or the recipient's representative wishes to revoke the election of hospice services, the following apply:

(1) The individual must file a hospice revocation statement on a form approved by the office. The form includes a signed statement that the individual revokes the election of Medicaid hospice services for the remaining days in the benefit period. **The form must specify the date that the revocation is to be effective, if later than the date the form is signed by the individual or representative. An individual or representative may not designate an effective date earlier than the date that the revocation is made.**

(2) A recipient may elect to receive hospice care intermittently rather than consecutively over the benefit periods.

(3) If a recipient revokes hospice services during any benefit period, time remaining on that benefit period is forfeited.

(4) The revocation form must be completed for Medicaid-only hospice recipients as well as dually-eligible Medicare/Medicaid hospice recipients residing in nursing facilities. The hospice provider must submit this form to the office or its designee.

(5) The Medicaid hospice revocation form must be included in the recipient's medical chart in the hospice agency. If the Medicaid hospice recipient resides in a nursing facility, the Medicaid hospice revocation form must be included in the recipient's nursing facility medical chart as well.

~~(f)~~ **(g)** A recipient or a recipient's representative may change hospice providers once during any benefit period. This change does not constitute a revocation of services.

(1) To change the designation of hospice programs, the individual or the individual's representative must complete the Medicaid Hospice Provider Change Request Between Indiana Hospice Providers Form or other form designated by the office for this purpose. This form is required for the Medicaid-only hospice recipient and the dually-eligible Medicare/Medicaid hospice member residing in the nursing facility. The original provider must submit this form to the office or its designee.

(2) The Medicaid Hospice Provider Change Request Between Indiana Hospice Providers Form, or other form designated by the office for this purpose, must be included in the recipient's medical chart in the hospice agency. If the Medicaid hospice recipient resides in a nursing facility, this form must be included in the recipient's nursing facility chart. This documentation requirement is for the Medicaid-only hospice member as well as the dually-eligible Medicare/Medicaid hospice member residing in a nursing facility.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-6; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2381; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 11. 405 IAC 5-34-7 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-34-7 Plan of care

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-40
Affected: IC 12-15

Sec. 7. (a) When an eligible recipient elects to receive services from a certified hospice provider, the provider shall develop a plan of care. **For the Medicaid-only hospice recipients,** the provider must submit the **Medicaid** plan **of care form** to the office or the office's contractor with the **Medicaid** physician certification and the **Medicaid** election statement.

(b) In developing the plan of care, the provider must comply with the following procedures:

(1) The interdisciplinary team member who drafts the plan

must confer with at least one (1) other member of the interdisciplinary team.

(2) One (1) of the conferees must be a physician or nurse and all other team members must review the plan of care.

(3) All services stipulated within the plan of care must be reasonable and necessary for the palliation or management of the terminal illness and related conditions.

(4) For the Medicaid-only hospice recipient, the Medicaid hospice plan of care must be included in the recipient's medical chart at the hospice agency. If the Medicaid-only recipient resides in a nursing facility, the Medicaid plan of care must also be included in the recipient's nursing facility medical chart.

(5) For the dually-eligible Medicare/Medicaid hospice recipient residing in a nursing facility, a coordinated plan of care prepared and agreed upon by the hospice and nursing facility must be included in the recipient's nursing facility medical chart.

(Office of the Secretary of Family and Social Services; 405 IAC 5-34-7; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2382; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 23, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed new rules concerning the following: Amends 405 IAC 1-16-2 to specify the payment level for hospice services on the date that an individual is discharged from inpatient or respite hospice care. Amends 1-16-4 to specify that, in order to receive Medicaid reimbursement for room and board for nursing home residents receiving hospice services, the hospice must have a written agreement with the nursing facility. Amends 405 IAC 5-34-1 to specify that the hospice provider must provide all services in compliance with the Medicaid provider agreement, the appropriate provider manual and all other Medicaid policy documents issued to provider at the time services were rendered, and any applicable state or federal statute or regulations. Amends 405 IAC 5-34-2 to specify licensure and certification requirements for Medicaid hospice providers. Amends 405 IAC 5-34-3 to specify the requirements for Medicaid reimbursement for hospice services provided by out of state hospice providers. Amends 405 IAC 5-34-4 to specify the requirements for obtaining authorization for hospice services. Adds 405 IAC 5-34-4.1 regarding appeals of hospice authorization determinations. Adds 405 IAC 5-34-4.2 to provide for retrospective audit of hospice services including review for medical necessity. Amends 405 IAC 5-34-5 to specify requirements relating to the hospice physician certification form. Amends 405 IAC 5-34-6 to specify requirements relating to election and revocation of hospice services. Amends 405 IAC 5-34-7 to specify requirements relating to the hospice plan of care. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton
Secretary
Office of the Secretary of Family and Social Services

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Proposed Rule
LSA Document #02-43

DIGEST

Amends 410 IAC 15-1.5-4 and 410 IAC 15-1.5-5 to remove the 48 hour requirement for authentication of entries in medical records and add requirements regarding appropriate authentication of entries in medical records. Effective 30 days after filing with the secretary of state.

410 IAC 15-1.5-4
410 IAC 15-1.5-5

SECTION 1. 410 IAC 15-1.5-4 IS AMENDED TO READ AS FOLLOWS:

410 IAC 15-1.5-4 Medical record services
Authority: IC 16-21-1-7
Affected: IC 16-21-1

Sec. 4. (a) The medical record service has administrative responsibility for the medical records that shall be maintained for every individual evaluated or treated within those services that come under the hospital's license.

(b) The organization of the medical record service shall be appropriate to the scope and complexity of the services provided as follows:

(1) The service shall be directed by a registered record administrator (RRA) or an accredited record technician (ART). If a full-time or part-time RRA or ART is not employed, then a consultant RRA or ART shall be provided to assist the person in charge. Documentation of the findings and recommendations of the consultant shall be maintained.

(2) The medical record service shall be provided with the necessary direction, staffing, and facilities to perform all required functions in order to ensure prompt completion, filing, and retrieval of records.

(c) An adequate medical record shall be maintained with

documentation of service rendered for each individual who is evaluated or treated as follows:

(1) Medical records are documented accurately and in a timely manner, are readily accessible, and permit prompt retrieval of information.

(2) A unit record system of filing should be utilized. When this is not possible, a system shall be established by the hospital to retrieve when necessary all divergently located record components.

(3) The hospital shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries. Each entry shall be authenticated **promptly** in accordance with the hospital and medical staff policies.

(4) Medical records shall be retained in their original or legally reproduced form as required by federal and state law.

(5) Plain paper facsimile orders, reports, and documents are acceptable for inclusion in the medical record if allowed by the hospital policies.

(6) The hospital shall have a system of coding and indexing medical records which allows for timely retrieval of records by diagnosis and procedure in order to support continuous quality assessment and improvement activities.

(7) The hospital shall ensure the confidentiality of patient records which includes, but is not limited to, the following:

(A) A procedure for releasing information from or copies of records only to authorized individuals in accordance with federal and state laws.

(B) A procedure that ensures that unauthorized individuals cannot gain access to patient records.

(d) The medical record shall contain sufficient information to:

(1) identify the patient;

(2) support the diagnosis;

(3) justify the treatment; and

(4) document accurately the course of treatment and results.

(e) All entries in the medical record shall be:

(1) legible and complete;

(2) made only by individuals given this right as specified in hospital and medical staff policies; and

(3) authenticated and dated promptly ~~within forty-eight (48) hours~~ in accordance with subsection (c)(3).

(f) All inpatient records, except those in subsection (g), shall document and contain, but not be limited to, the following:

(1) Identification data.

(2) The medical history and physical examination of the patient done within the time frames as prescribed by the medical staff rules and section 5(b)(3)(M) of this rule.

(3) A statement of the diagnosis or impressions drawn from the admission history and physical examination.

(4) Diagnostic and therapeutic orders.

(5) Evidence of appropriate informed consent for procedures and treatments for which it is required as specified by the informed consent policy developed by the medical staff and governing board, and consistent with federal and state law.

(6) Clinical observations, including results of therapy, documented in a timely manner.

(7) Progress notes.

(8) Operative note in accordance with 410 IAC 15-1.6-9(c)(7).

(9) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(10) Nursing notes, nursing plan of care, and entries by other health care providers that contain pertinent, meaningful observations and information.

(11) Reports of pathology and clinical laboratory examinations, radiology and nuclear medicine examinations or treatment, anesthesia records, and any other diagnostic or therapeutic procedures and their results.

(12) Documentation of complications and unfavorable reactions to drugs and anesthesia.

(13) A discharge summary authenticated by the physician. A final progress note may be substituted for the discharge summary in the case of a normal newborn infant and uncomplicated obstetric delivery. The final progress note should include any instruction given to the patient and family.

(14) Final diagnosis.

(g) A short stay record form used for inpatients hospitalized for less than forty-eight (48) hours, observation patients, ambulatory care patients, and ambulatory surgery patients shall document and contain, but not be limited to, the following:

(1) Identification data.

(2) Medical history and description of the patient's condition and pertinent physical findings.

(3) Diagnostic and therapeutic orders.

(4) Care based on identified standard of care and standard of practice.

(5) Data necessary to support the diagnosis and the treatment given, with reports of procedures and tests, and their results, clinical observations, including the results of therapy, and anesthesia given, if applicable.

(6) Operative note in accordance with 410 IAC 15-1.6-9(c)(7), if applicable.

(7) Final progress note, including instructions to the patient and family with dismissal diagnosis and disposition of patient.

(8) Authentication by the physician and other responsible personnel in attendance.

(h) Outpatient records shall document and contain, but not be limited to, the following:

(1) Identification data.

(2) Diagnostic and therapeutic orders.

(3) Description of treatment given, procedures performed, and documentation of patient response to intervention, if applicable.

(4) Results of diagnostic tests and examinations done, if applicable.

(i) Emergency service records shall document and contain, but not be limited to, the following:

(1) Identification data.

(2) Time of arrival, means of arrival, time treatment is initiated, and time examined by the physician, if applicable.

(3) Pertinent history of illness or injury, description of the illness or injury, and examination, including vital signs.

(4) Diagnostic and therapeutic orders.

(5) Description of treatment given or prescribed, clinical observations, including the results of treatment, and the reports of procedures and test results, if applicable.

(6) Authentication by the practitioner or licensed health professional who rendered treatment or prescribed for the patient in accordance with hospital policy.

(7) Instruction given to patient on release, prescribed follow-up care, signature of patient or responsible other, and name of person giving instructions.

(8) Diagnostic impression and condition on discharge documented by the practitioner, and disposition of the patient and time of dismissal.

(9) Copy of transfer form, if patient is referred to the inpatient service of another hospital. If care is not furnished to a patient or if the patient is referred elsewhere, the reasons for such action shall be recorded.

(Indiana State Department of Health; 410 IAC 15-1.5-4; filed Dec 21, 1994, 9:40 a.m.: 18 IR 1269; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

SECTION 2. 410 IAC 15-1.5-5 IS AMENDED TO READ AS FOLLOWS:

410 IAC 15-1.5-5 Medical staff

Authority: IC 16-21-1-7
Affected: IC 16-21-1; IC 25-22.5

Sec. 5. (a) The hospital shall have an organized medical staff that operates under bylaws approved by the governing board and is responsible to the governing board for the quality of medical care provided to patients. The medical staff shall be composed of two (2) or more physicians and other practitioners as appointed by the governing board and do the following:

(1) Conduct outcome oriented performance evaluations of its members at least biennially.

(2) Examine credentials of candidates for appointment and reappointment to the medical staff by using sources in accordance with hospital policy and applicable state and federal law.

(3) Make recommendations to the governing board on the appointment or reappointment of the applicant for a period not to exceed two (2) years.

(4) Maintain a file for each member of the medical staff which includes, but is not limited to, the following:

(A) A completed, signed application.

(B) The date and year of completion of all Accreditation Council for Graduate Medical Education (ACGME) accredited residency training programs, if applicable.

(C) A copy of their current Indiana license showing date of licensure and current number or an available certified list provided by the health professions bureau. A copy of practice restrictions, if any, shall be attached to the license issued by the health professions bureau through the medical licensing board.

(D) A copy of their current Indiana controlled substance registration showing number, as applicable.

(E) A copy of their current Drug Enforcement Agency registration showing number, as applicable.

(F) Documentation of experience in the practice of medicine.

(G) Documentation of specialty board certification, as applicable.

(H) Category of medical staff appointment and delineation of privileges approved.

(I) A signed statement to abide by the rules of the hospital.

(J) Documentation of current health status as established by hospital and medical staff policy and procedure and federal and state requirements.

(K) Other items specified by the hospital and medical staff.

(b) The medical staff shall adopt and enforce bylaws and rules to carry out its responsibilities. These bylaws and rules shall:

(1) be approved by the governing board;

(2) be reviewed at least triennially; **and**

(3) include, but not be limited to, the following:

(A) A description of the medical staff organizational structure. If the organization calls for an executive committee, a majority of the members shall be physicians on the active medical staff.

(B) Meeting requirements of the staff.

(C) A provision for maintaining records of all meetings of the medical staff and its committees.

(D) A procedure for designating an individual physician with current privileges as chief, president, or chairperson of the staff.

(E) A statement of duties and privileges for each category of the medical staff.

(F) A description of the medical staff applicant qualifications.

(G) Criteria for determining the privileges to be granted to individual practitioners and a procedure for applying the criteria to individuals requesting privileges.

(H) A process for review of applications for staff membership, delineation of privileges in accordance with the competence of each practitioner, and recommendations on appointments to the governing board.

(I) A process for appeals of decisions regarding medical staff membership and privileges.

(J) A process for medical staff performance evaluations based on clinical performances indicated in part by the results of quality assessment and improvement activities.

(K) A process for reporting practitioners who fail to comply with state professional licensing law requirements as found in IC 25-22.5, and for documenting appropriate enforcement actions against practitioners who fail to comply with the hospital and medical staff bylaws and rules.

(L) A provision for physician coverage of emergency care ~~which~~ **that** addresses at least:

(i) a definition of emergency care to include, but not be limited to:

(AA) inpatient emergencies; **and**

(BB) emergency services emergencies; and

(ii) a timely response.

(M) A requirement that a complete physical examination and medical history be performed:

(i) on each patient admitted by a practitioner who has been granted such privileges by the medical staff;

(ii) within seven (7) days prior to date of admission and documented in the record with a durable, legible copy of the report and changes noted in the record on admission; or

(iii) within forty-eight (48) hours after an admission.

(N) A requirement that all physician orders shall be in writing or acceptable computerized form and shall be authenticated ~~within forty-eight (48) hours~~ by the responsible individual **in accordance with hospital and medical staff policies.**

(O) A requirement that all verbal orders must be repeated and verified and that the repetition and verification be documented in the patient's medical record signed and dated by the authorized health care professional that took the order. If there is no repetition and verification of the verbal order the prescribing physician/practitioner shall authenticate and date the verbal order within forty-eight (48) hours.

~~(O)~~ **(P)** A requirement that the final diagnosis be documented along with completion of the medical record within thirty (30) days following discharge.

(c) The medical staff should attempt to secure autopsies in all cases of unusual deaths and educational interest. There shall be the following:

(1) A mechanism for documenting in writing the following:

(A) That permission to perform an autopsy was obtained.

(B) The source of the permission.

(2) A system for notifying the medical staff, and specifically the attending practitioner, when an autopsy is being performed.

(Indiana State Department of Health; 410 IAC 15-1.5-5; filed Dec 21, 1994, 9:40 a.m.: 18 IR 1271; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 22, 2002 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on proposed amendments to remove the 48 hour requirement for authentication of entries in medical records and add requirements regarding appropriate authentication of entries in medical records. Copies of these rules are now on file at the Health Care Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street, 5th Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gregory A. Wilson, M.D.
State Health Commissioner
Indiana State Department of Health

TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #02-74

DIGEST

Amends 470 IAC 3.1-12-2 to include fees received pursuant to the cost participation legislation (IC 12-17-15-17) as a funding source for assistance to children eligible for early intervention services. Adds 470 IAC 3.1-12-7 to adopt cost participation procedures. This rule originally established a comprehensive system of early intervention services for eligible infants and toddlers with disabilities and their families. Effective 30 days after filing with the secretary of state.

470 IAC 3.1-12-2
470 IAC 3.1-12-7

SECTION 1. 470 IAC 3.1-12-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3.1-12-2 Funding sources

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The individualized services specified in 470 IAC 3.1-4-2, provided to eligible infants and toddlers and their families, shall be financed through multiple funding sources. Sources which may be available to finance individualized services, as appropriate, may include, but are not limited to, the following:

(1) Title XIX of the Social Security Act (Medicaid).

(2) Third party payors, including private health insurers.

(3) Any medical program administered by the Secretary of the United States Department of Defense.

(4) Cost participation by the parent of an eligible child that receives early intervention services, pursuant to and in accordance with IC 12-17-15-17(b) through IC 12-17-15-17(e).

(b) All infants and toddlers and their families who are eligible for early intervention services through Medicaid and Childrens' Special Health Care Services must apply for Medicaid and Childrens' Special Health Care Services.

(c) Third party payors, such as health insurance companies, may be billed for the costs of appropriate early intervention services with informed, written parental consent through financial case management.

(d) Notwithstanding subsections **(a)(4),** (b), (c), and ~~section~~ **sections** 3 **and 7** of this rule, the provision of early intervention services may not be denied or delayed due to disputes between service providers or other agencies regarding financial responsibility to pay for early intervention services, **nor because of the inability of the parent of an eligible child to pay for services, under a cost participation plan.**

(e) Nothing in this article shall be construed as restricting any service provider from providing services to any person regardless of eligibility status; however, no service provider may utilize any early intervention system funding source for services provided to any ineligible child or family or file claims for reimbursement from the early intervention system for services rendered to such child or family. *(Division of Family and Children; 470 IAC 3.1-12-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1345; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2266; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 2. 470 IAC 3.1-12-7 IS ADDED TO READ AS FOLLOWS:

470 IAC 3.1-12-7 Cost participation plan

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. (a) As used in this section, family of an eligible infant or toddler shall be composed of members who live in the same household as the eligible infant or toddler and include only the following members:

(1) Biological parent.
(2) Adoptive parent.
(3) Sibling.
(4) Half-sibling.
(5) Adoptive sibling.

(b) The division shall establish and implement cost participation plan procedures for charges and fees imposed by service providers for the individualized services specified in:

(1) 470 IAC 3.1-4-2(a)(2) through 470 IAC 3.1-4-2(a)(4);
(2) 470 IAC 3.1-4-2(a)(6) through 470 IAC 3.1-4-2(a)(10);
(3) 470 IAC 3.1-4-2(a)(12) through 470 IAC 3.1-4-2(a)(14); and
(4) 470 IAC 3.1-4-2(a)(16).

(c) The cost participation plan procedures for each eligible family shall be based upon the following:

(1) The following schedule of costs, which expires on July 1, 2005:

Percentage of Federal Income Poverty Level		Copayment Per Treatment	Maximum Monthly Cost Share Per Family
At Least	But Not More Than		
0%	350%	$0	$0
351%	450%	$5	$25
451%	550%	$10	$50
551%	650%	$15	$75
651%	750%	$20	$100
751%	850%	$25	$125
851%	1000%	$30	$150
1001%		$36	$180

(2) The parent's ability to pay.

(d) The division may waive or reduce a required copayment if:

(1) out-of-pocket medical expenses and personal care needs expenses incurred, within the previous twelve (12) month period preceding the date of application that relate to the health or medical needs of a family member reduce the level of income the parent has to a lower level found in the schedule of costs at subsection (c)(1); or
(2) the division receives payment from a parent's health care coverage and does not exceed more than three thousand five hundred dollars ($3,500) per eligible child, per year.

(e) A parent who fails to provide the financial information for the division to be able to determine the copayment amount shall pay the maximum level copayment found in the schedule of costs at subsection (c)(1).

(f) The division may allow and accept voluntarily contributed payments that exceed the parent's required copayment amount.

(g) The parent's cost participation amount shall be reviewed by the division for one (1) or both of the following:

(1) Annually.
(2) Within thirty (30) days after the parent reports a reduction in income.

(h) The SPOE shall notify the parent of the following:

(1) The copayment amount per treatment and the maximum monthly cost share per family.

(2) Any recalculated copayment amount per treatment and the maximum monthly cost share per family determined under subsection (g)(1) or (g)(2).

(i) The parent may request reconsideration by the division of the copayment amount within fifteen (15) days from the date the notification of the copayment amount was received by the parent. The request for reconsideration shall:

(1) be written;

(2) be sent to the director of the division; and

(3) state the specific reasons the copayment amount should be reconsidered.

(j) The division shall establish and implement procedures to assure timely reimbursement of the copayment by parents for early intervention services required under this section.

(k) The copayments that are received by the division under this cost participation plan must be used to fund the early intervention system. *(Division of Family and Children; 470 IAC 3.1-12-7)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 28, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana; ***AND*** *on October 28, 2002 at 1:00 p.m. at Indiana University North, 1700 Mishawaka Avenue, Rooms 223 and 225, South Bend, Indiana;* ***AND*** *on October 28, 2002 at 1:00 p.m. at Indiana University South East, 4201 Grant Line Road, Hoosier West Room, New Albany, Indiana the Division of Family and Children will hold a public hearing on proposed amendments to amend 470 IAC 3.1-12-2 to include fees received pursuant to the cost participation legislation (IC 12-17-15-17) as a funding source for assistance to children eligible for early intervention services and add 470 IAC 3.1-12-7 to adopt cost participation procedures. Written comments may be directed to the First Steps Early Intervention System, Bureau of Child Development, 402 West Washington Street, Room W386, MS 02, Indianapolis, Indiana 46204 ATTENTION: FS Rule Comments.*

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W386, MS 02, each First Steps Council and SPOE around the state, and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Jay Boyce
Director
Division of Family and Children

TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #02-203

DIGEST

Amends 470 IAC 11.1-1-5 to increase the maximum monthly income allowable for participation in the hospital care for the indigent program. Effective 30 days after filing with the secretary of state.

470 IAC 11.1-1-5

SECTION 1. 470 IAC 11.1-1-5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 11.1-1-5 Income determination
Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-16-3-3
Affected: IC 12-16-3-1

Sec. 5. (a) Income is all money received by the household members in the month of hospitalization subject to subsection (b).

(b) Income received on a quarterly, semiannual, or annual basis shall be divided by the appropriate number of months to establish monthly income.

(c) Countable income is gross monthly income less the following exclusions:

(1) Supplemental security income of the patient is excluded.

(2) Fifteen dollars and fifty cents ($15.50) is deducted from the income of the patient.

(3) Funds from a grant, scholarship, or fellowship, which are designated for tuition and mandatory books and fees at an educational institution or for vocational rehabilitation or technical training purposes, shall be deducted from the total of such funds.

(4) All of the earned income of a child under fourteen (14) years of age is excluded.

(5) Home energy assistance is excluded.

(6) The deductions allowed by the Internal Revenue Service are excluded from gross self-employment income.

(7) The deductions allowed by the Internal Revenue Service are excluded from gross rental income, with the following exceptions:

(A) Depreciation.

(B) Payments on the mortgage principal.

(C) Personal expenses of the owner.

(D) Insurance to pay off the mortgage in the event of death or disability.

(E) Capital expenditures.

(8) Tax refunds are excluded as income and shall be considered personal property under section 6 of this rule.

(9) Net earned income is determined by deducting sixty-five dollars ($65) plus one-half (½) of the remainder from gross earned income. Any part of the exclusion allowed in subdivision (2), which has not been deducted from unearned income, shall be deducted from gross earned income prior to the determination of net earned income.

(10) A loan shall not be considered as income in the month of receipt if the written or verbal loan agreement is legally binding under state law and includes the following:

(A) The borrower's acknowledgment of an obligation to repay.

(B) A timetable and plan for repayment.

(C) The borrower's expressed intent to repay either by pledging real or personal property or anticipated income.

(d) If the countable income, as determined in subsection (c), of the household members exceeds the monthly income standard as set forth in this subsection, the patient is ineligible for hospital care for the indigent.

Household Size	Maximum Monthly Income
1	~~$522~~ **$544**
2	~~$703~~ **$747**
3	~~$884~~ **$939**
4	~~$1,066~~ **$1,132**
Each additional household member	~~$182~~ **$193**

(e) The income standards specified in subsection (d) shall be adjusted on a biennial basis beginning in the year 2004, effective for hospitalizations that begin on and after October 1, 2004. Every two (2) years thereafter, the income standards shall be adjusted effective October 1. The standards shall be in an amount equal to seventy-five percent (75%) of the Federal Poverty Income Guidelines as published in the Federal Register. *(Division of Family and Children; 470 IAC 11.1-1-5; filed Jun 3, 1986, 3:00 p.m.: 9 IR 2714; filed Dec 4, 1989, 4:40 p.m.: 13 IR 629; errata filed Jun 20, 1990, 4:10 p.m.: 13 IR 2005; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2779; filed Oct 3, 1997, 4:50 p.m.: 21 IR 375; filed Feb 13, 2001, 3:07 p.m.: 24 IR 2090; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 28, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Division of Family and Children will hold a public hearing on proposed amendments to increase the maximum monthly income allowable for participation in the hospital care for the indigent program. Written comments may be directed to the Office of General Counsel, ATTENTION: Joy A. Heim, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Jay Boyce
Director
Division of Family and Children

TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #02-124

DIGEST

Amends 760 IAC 1-59 to set filing and implementation requirements for internal grievance procedures. Effective 30 days after filing with the secretary of state.

760 IAC 1-59-1	**760 IAC 1-59-8**
760 IAC 1-59-2	**760 IAC 1-59-9**
760 IAC 1-59-3	**760 IAC 1-59-10**
760 IAC 1-59-4	**760 IAC 1-59-11**
760 IAC 1-59-5	**760 IAC 1-59-12**
760 IAC 1-59-6	**760 IAC 1-59-13**
760 IAC 1-59-7	**760 IAC 1-59-14**

SECTION 1. 760 IAC 1-59-1 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-1 Authority
Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-13-10

Sec. 1. This rule is adopted and promulgated pursuant to the authority granted by **IC 27-8-28-20,** IC 27-13-10-13, and IC 27-13-35-1. *(Department of Insurance; 760 IAC 1-59-1; filed Sep 30, 1998, 2:17 p.m.: 22 IR 446, eff Jan 1, 1999)*

SECTION 2. 760 IAC 1-59-2 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-2 Purpose
Authority: IC 27-8-28-20; IC 27-13-10-13
Affected: IC 27-8-28-19; IC 27-13-8-2; IC 27-13-10

Sec. 2. The purpose of this rule is to prescribe the following for **insurers and** health maintenance organizations:

(1) The form for filing information with the commissioner, as required by **IC 27-8-28-19 and** IC 27-13-8-2(a).

(2) Requirements for notifying enrollees of grievance procedures.

(3) Requirements for filing, investigating, and resolving grievances and appeals.

(Department of Insurance; 760 IAC 1-59-2; filed Sep 30, 1998, 2:17 p.m.: 22 IR 446, eff Jan 1, 1999)

SECTION 3. 760 IAC 1-59-3 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-3 Definitions

Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28-3; IC 27-13-1-12; IC 27-13-1-32; IC 27-13-10-7

Sec. 3. The definitions in **IC 27-8-28 and** IC 27-13 shall apply for purposes of this rule, in addition to the following:

~~(1) "Commissioner" means the commissioner of the department of insurance.~~

~~(2) "Department" means the department of insurance.~~

~~(3)~~ **(1)** "Enrollee", as defined in IC 27-13-1-12, includes "subscriber" as defined in IC 27-13-1-32 **and "covered individual" as defined in IC 27-8-28-3.**

~~(4)~~ **(2)** "Grievance" means **the following:**

(A) For a health maintenance organization and a limited service health maintenance organization, any dissatisfaction expressed by or on behalf of an enrollee of a health maintenance organization, or a limited service health maintenance organization regarding the:

~~(A)~~ **(i)** availability, delivery, appropriateness, or quality of health care services;

~~(B)~~ **(ii)** handling or payment of claims for health care services; or

~~(C)~~ **(iii)** matters pertaining to the contractual relationship between:

~~(i)~~ **(AA)** an enrollee and a health maintenance organization or a limited service health maintenance organization; or

~~(ii)~~ **(BB)** a group or individual contract holder and a health maintenance organization or a limited service health maintenance organization;

and for which the enrollee has a reasonable expectation that action will be taken to resolve or reconsider the matter that is the subject of dissatisfaction.

(B) For an insurer, any dissatisfaction expressed by or on behalf of a covered individual regarding:

(i) a determination that a service or a proposed service is not appropriate or medically necessary;

(ii) a determination that a service or a proposed service is experimental or investigational;

(iii) the availability of participating providers;

(iv) the handling or payment of claims for health care services; or

(v) matters pertaining to the contractual relationship between a:

(AA) covered individual and an insurer; or

(BB) group policyholder and an insurer;

and for which the covered individual has a reasonable expectation that action will be taken to resolve or reconsider the matter that is the subject of the dissatisfaction.

~~(5)~~ **(3)** "Grievance procedures" means written procedures established and maintained by a health maintenance organization, ~~or~~ a limited service health maintenance organization, **or an insurer** for filing, investigating, and resolving grievances and appeals.

~~(6)~~ **(4)** "Major population group" means a racial or ethnic group for whom English is not the primary language and whose members comprise at least ten percent (10%) of the health maintenance organization's enrollees.

(Department of Insurance; 760 IAC 1-59-3; filed Sep 30, 1998, 2:17 p.m.: 22 IR 447, eff Jan 1, 1999)

SECTION 4. 760 IAC 1-59-4 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-4 Reports

Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28-19; IC 27-13-8-2

Sec. 4. ~~(a)~~ On or before March 1 of each year, **an insurer,** a health maintenance organization, **and a limited service health maintenance organization** must submit **electronically** to the department a grievance procedure report for the preceding calendar year on the form set forth in section 14 of this rule. A health maintenance organization **and a limited service health maintenance organization** may submit the information required by IC 27-13-8-2(a)(2) and IC 27-13-8-2(a)(3) concurrent with this filing.

~~(b) The report must be prepared in tabular form on paper measuring eight and one-half (8½) inches by eleven (11) inches.~~

~~(c) The report also must be submitted on a disk formatted for Microsoft Excel and the disk must accompany the paper copy.~~

(Department of Insurance; 760 IAC 1-59-4; filed Sep 30, 1998, 2:17 p.m.: 22 IR 447, eff Jan 1, 1999)

SECTION 5. 760 IAC 1-59-5 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-5 Grievance register

Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-13-10-3

Sec. 5. (a) **An insurer,** a health maintenance organization, and a limited service health maintenance organization shall maintain written records that document certain information about all grievances received during a calendar year (the grievance register).

(b) The grievance register shall contain, at a minimum, the following information for each grievance:

(1) A general description of the basis for the grievance using the categories in block 3 of the grievance procedures report set forth in section 14 of this rule.

(2) Date received.
(3) Date investigated or reviewed.
(4) Date resolved.
(5) Description of resolution.
(6) Date appeal, if any, was received.
(7) Date of appeals hearing or review.
(8) Date appeal was resolved.
(9) Description of resolution of the appeal.
(10) Name of enrollee and enrollee's representative, if any, who filed, or upon whose behalf was filed, the grievance.
(11) Names and titles of all persons who investigated, reviewed, and resolved the grievance.

(c) **An insurer,** a health maintenance organization, or **a** limited service health maintenance organization shall retain each grievance register until the commissioner has conducted an examination of the organization and adopted a final report of the examination that contains a review of the register for the calendar year covered by the grievance register. *(Department of Insurance; 760 IAC 1-59-5; filed Sep 30, 1998, 2:17 p.m.: 22 IR 447, eff Jan 1, 1999)*

SECTION 6. 760 IAC 1-59-6 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-6 Establishment of grievance procedures; filing with and review by commissioner

Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28-17; IC 27-13-2; IC 27-13-10; IC 27-13-34-8; IC 27-13-39-3

Sec. 6. (a) **An insurer,** a health maintenance organization, and a limited service health maintenance organization shall establish and maintain grievance procedures.

(b) A copy of the grievance procedures, including all forms used in filing and reviewing grievances, shall be included with any application for a certificate of authority submitted to the department.

(c) Any material modifications to the grievance procedures subsequent to the submission of the application shall be filed with the commissioner not more than fifteen (15) days after the adoption of the modification.

(d) The grievance procedures shall require the following:
(1) **A health maintenance organization must provide written or oral acknowledgment of a grievance or appeal no more than three (3) business days after receipt. Insurers must provide** written or oral acknowledgment of a grievance or appeal **no more than five (5) business days after receipt.** The acknowledgment must include the name, address, and telephone number of an individual to contact regarding the grievance and the date the grievance was filed.
(2) Investigation of any grievance or appeal in accordance with written procedures and the requirements of section 10 of this rule.
(3) Documentation of the substance of the grievance and all actions taken by the **insurer or** health maintenance organization regarding the grievance or appeal, including notification, acknowledgment, investigation, and resolution.
(4) Written notification to the enrollee of:
(A) resolution of the grievance or appeal;
(B) the right to appeal the resolution;
(C) information about how, when, and where to appeal the resolution; and
(D) the right to further remedies allowed by law, in the case of an appeal of a grievance resolution.

(e) The grievance procedures shall include procedures to assist enrollees and representatives of enrollees in filing grievances and appeals, including provisions for assistance to persons with literacy, language, physical, health, or other impediments.

(f) The grievance procedures shall include standards that meet the requirements of **IC 27-8-28-17 or** IC 27-13-10 and section 10 of this rule for timeliness in acknowledging, investigating, and resolving grievances and appeals and that accommodate the clinical urgency of the enrollee's situation. The standards for timeliness shall address:
(1) the likelihood of death, permanent injury, improvement, or deterioration of health status; and
(2) the ability to reach and maintain maximum function.

(g) The grievance procedures must require expedited review of a grievance or appeal if the time periods set forth in section 10 of this rule would seriously jeopardize the life or health of an enrollee or the enrollee's ability to reach and maintain maximum function.

(h) ~~The~~ **An HMO's** grievance procedures must comply with the requirements of IC 27-13-39-3 with respect to any grievance regarding denial of coverage for a treatment, procedure, drug, or device on the grounds that it is experimental.

(i) The grievance procedures shall require and describe the process for the appointment of at least one (1) individual who has sufficient experience, knowledge, and training to appropriately resolve a grievance or appeal.

(j) The requirements of subsections (d) through (i) do not apply to a limited service health maintenance organization. *(Department of Insurance; 760 IAC 1-59-6; filed Sep 30, 1998, 2:17 p.m.: 22 IR 447, eff Jan 1, 1999; errata, 22 IR 759)*

SECTION 7. 760 IAC 1-59-7 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-7 Notice to enrollees

Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-13-7-5; IC 27-13-9-4; IC 27-13-10; IC 27-13-39

Sec. 7. (a) **An insurer and** a health maintenance organization shall provide the following to each enrollee:

(1) Information about health care services ~~offered~~ **covered** by the **insurer or** health maintenance organization, including the following:

(A) A description of ~~in-plan and out-of-plan~~ covered services, **including any network sensitive services.**

(B) A description of any limitations on payment for or coverage of health care services, including definitions of commonly used terms.

(C) Criteria used to determine whether to deny coverage.

(D) A description of exclusions from coverage.

(E) An explanation of any limitation on coverage for experimental treatments, procedures, drugs, or devices, including the following:

(i) A description of the process used to determine any limitation.

(ii) A description of the criteria the **insurer or the** health maintenance organization uses to determine whether a treatment, procedure, drug, or device is experimental.

(2) Information about where additional information on access to services can be obtained.

(3) Information about the **insurer's or the** health maintenance organization's grievance procedures, including the toll free telephone number described in section 8 of this rule.

(4) Information about the **insurer's or the** health maintenance organization's structure.

(5) Information about costs for which the enrollee is responsible.

(6) Information about financial incentives and disincentives given by the **insurer or the** health maintenance organization to providers.

(b) Except as provided in subsection (f), the information required by subsection (a) must be:

(1) included in or provided with the evidence of coverage required under IC 27-13-7-5 or any member handbook within the time periods set forth in subsection (f); and

(2) provided to any potential enrollee upon request.

(c) The information required by subsection (a)(3) shall be included on any notice to enrollees regarding the provision, limitation, or denial of health care services.

(d) The toll free telephone number shall be prominently displayed on any enrollment verification card.

(e) **This subsection is applicable to health maintenance organizations only.** A brief statement of an enrollee's right to file a grievance with the health maintenance organization, including the toll free telephone number, shall be posted by a participating provider in a conspicuous public location in each place where health care services are provided by or on behalf of the health maintenance organization. The notice shall be in bold face type at least one-half (½) inch in height. The statement must contain the following or substantially similar language: "We participate in the following health maintenance organizations: [list names of and toll free telephone numbers of participating HMOs]. If you have coverage through one (1) of these HMOs and have a complaint or grievance, you may call the HMO at its toll free number listed above. The HMO is required by law to try to resolve your complaint or grievance. You may also register a complaint with the Indiana Department of Insurance at 1-800-622-4461. The HMO cannot retaliate against you or your provider for making a complaint.

(f) The information required by subsection (a) must be provided to enrollees not later than one hundred twenty (120) days after the effective date of this rule. During the period beginning one hundred twenty (120) days after the effective date of this rule and ending on the first renewal date of the enrollee's plan that occurs on or after the effective date of this rule, the information required by subsection (a) may be provided to enrollees in an addendum to or statement separate from the documents described in subsections (b) and (d). *(Department of Insurance; 760 IAC 1-59-7; filed Sep 30, 1998, 2:17 p.m.: 22 IR 448, eff Jan 1, 1999)*

SECTION 8. 760 IAC 1-59-8 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-8 Toll free telephone number

Authority: IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-13-9-4; IC 27-13-10-5

Sec. 8. (a) **An insurer and** a health maintenance organization shall establish a toll free telephone number through which grievances and appeals may be filed and information about grievance procedures obtained.

(b) An individual who is knowledgeable about the **insurer's or the** health maintenance organization's grievance procedures and any applicable state laws and regulations must be available to respond to calls received at the toll free telephone number at least forty (40) normal business hours per week. The toll free telephone number must be answered by an answering machine or similar device at all other times.

(c) Any messages left through the toll free telephone number must be returned on the following business day by a qualified individual.

(d) The toll free telephone number must accept grievances in English and the languages of the major population groups served by the health maintenance organization. *(Department of Insurance; 760 IAC 1-59-8; filed Sep 30, 1998, 2:17 p.m.: 22 IR 449, eff Jan 1, 1999)*

SECTION 9. 760 IAC 1-59-9 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-9 Filing grievances
Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-13-10

Sec. 9. (a) A grievance may be filed with **an insurer or** a health maintenance organization orally, including by telephone, or in writing, including by facsimile or electronic means of communication.

(b) A grievance may be filed with a limited service health maintenance organization, in writing, including by facsimile or electronic means of communication.

(c) A grievance is considered to be filed on the day and time it is first received orally or in writing by the **insurer,** health maintenance organization, or limited service health maintenance organization.

(d) A grievance may be filed by an enrollee**,** or a representative of an enrollee, including a health care provider acting on behalf of an enrollee. *(Department of Insurance; 760 IAC 1-59-9; filed Sep 30, 1998, 2:17 p.m.: 22 IR 449, eff Jan 1, 1999)*

SECTION 10. 760 IAC 1-59-10 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-10 Standards for timely review and resolution of grievances
Authority: IC 27-8-28-20; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-13-10-7; IC 27-13-10-8

Sec. 10. (a) Minimum standards for timely review and resolution of grievances filed with **an insurer or** a health maintenance organization are as follows:

(1) **A health maintenance organization shall provide** oral or written acknowledgment of a filed grievance ~~must be provided~~ to an enrollee not more than three (3) business days after the grievance is filed. **An insurer shall provide oral or written acknowledgment of a filed grievance to an enrollee or an enrollee's representative not more than five (5) business days after the grievance is filed.**

(2) ~~Resolution of~~ **A health maintenance organization shall resolve** a grievance not more than twenty (20) business days after the grievance is filed. **An insurer shall resolve a grievance not more than twenty (20) business days after the insurer receives all information reasonably necessary to complete the review.**

(3) Written notification to an enrollee of the resolution of a grievance not more than five (5) business days after the resolution.

(4) The time period set forth in subdivision (2) may be extended if **an insurer or** a health maintenance organization is unable to resolve a grievance within the specified time period due to circumstances beyond the **insurer's or the** health maintenance organization's control. An enrollee must be notified in writing of the reason for the delay not more than nineteen (19) business days after the grievance is filed. The **insurer or the** health maintenance organization shall issue a written notification of the resolution of the grievance not more than ten (10) business days after the notification to the enrollee of the delay.

(b) As used in this rule, "circumstances beyond the **insurer's or the** health maintenance organization's control" means the following:

(1) The failure of a provider that is not a participating provider to provide within fifteen (15) days of the filing of the grievance information that is requested by the **insurer or the** health maintenance organization and is necessary to adequately review and investigate the grievance.

(2) The failure of an enrollee to provide additional information requested by **the insurer or** the health maintenance organization that is necessary to resolve the grievance within fifteen (15) days of the filing of the grievance.

(c) Minimum standards for timely review and resolution of grievance resolution appeals filed with **an insurer or** a health maintenance organization are as follows:

(1) Oral or written acknowledgment **by a health maintenance organization** to an enrollee of a filed appeal not more than three (3) business days after the appeal is filed. **Oral or written acknowledgment by an insurer to a covered individual of a filed appeal not more than five (5) business days after the appeal is filed.**

(2) Resolution of the appeal not more than forty-five (45) business days after the appeal is filed.

(3) Written notification to an enrollee of the resolution of an appeal not more than five (5) business days after the resolution.

(Department of Insurance; 760 IAC 1-59-10; filed Sep 30, 1998, 2:17 p.m.: 22 IR 449, eff Jan 1, 1999)

SECTION 11. 760 IAC 1-59-11 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-11 Grievance resolution notice
Authority: IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-13-10-7

Sec. 11. The written notification of resolution required by section 10(a) and 10(c) of this rule shall contain the following:

(1) A statement of the **insurer's or the** health maintenance organization's understanding of the enrollee's grievance.

(2) A description of the resolution reached by the **insurer or the** health maintenance organization stated in clear terms and the contract basis or medical rationale for the resolution stated in sufficient detail for the enrollee to respond further to the **insurer's or the** health maintenance organization's position.

(3) A reference to the evidence or documentation used as the basis for the resolution.

(4) A statement of the procedures governing an appeal, including how to file an appeal.

(5) In the case of a resolution of an appeal of a grievance resolution, a notice of the enrollee's right to further remedies allowed by law.

(6) The department, address, and telephone number through which an enrollee may contact a qualified representative to obtain more information about the resolution of the grievance or the right to and procedures governing an appeal or further remedies allowed by law.

(Department of Insurance; 760 IAC 1-59-11; filed Sep 30, 1998, 2:17 p.m.: 22 IR 450, eff Jan 1, 1999)

SECTION 12. 760 IAC 1-59-12 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-12 Appeal of a grievance resolution

Authority: IC 27-8-28; IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-8-28; IC 27-8-17; IC 27-13-10-8

Sec. 12. (a) The health maintenance organization shall appoint a panel of individuals who have sufficient experience, knowledge, and training to appropriately resolve an appeal. If the grievance involves the proposal, refusal, or delivery of a health care procedure, treatment, or service, the panel must include at least one (1) individual who:

(1) has knowledge in the medical condition, procedure, or treatment at issue;

(2) is in the same licensed profession as the health care provider who proposed, refused, or delivered the health care procedure, treatment, or service that is the basis of the underlying grievance; and

(3) is not involved, **in any manner,** in the matter that is the basis of the underlying grievance **or have**

~~(b) The following individuals may not be appointed to a panel:~~

~~(1) Any individual who was involved in the matter that is the basis of the underlying grievance.~~

~~(2) Any individual who was involved in the investigation or resolution of the underlying grievance.~~

~~(3) Any individual who has~~ a direct business relationship with the enrollee or the health care provider who proposed, refused, or delivered the health care procedure, treatment, or service that is the basis of the underlying grievance.

~~(c) A health maintenance organization shall not be required to appoint a panel to resolve an appeal pursuant to IC 27-13-10-8 if the appeal involves substantially the same issue or issues previously reviewed in an appeal conducted pursuant to IC 27-8-17.~~

(b) In the case of an appeal of a grievance described in section 3(2)(B)(i) or 3(2)(B)(ii) of this rule, an insurer shall appoint a panel of one (1) or more qualified individuals to resolve an appeal. The panel shall include one (1) or more individuals who:

(1) have knowledge of the medical condition, procedure, or treatment at issue;

(2) are licensed in the same profession and have a similar specialty as the provide who proposed or delivered the health care procedure, treatment, or service;

(3) are not involved in the matter giving rise to the appeal or in the initial investigation of the grievance; and

(4) do not have a direct business relationship with the covered individual or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

~~(d)~~ **(c) An insurer and** a health maintenance organization shall require the panel to meet at a time during normal business hours and place convenient to an enrollee who wishes to appear before or otherwise communicate with the panel, to the extent reasonably possible. **An insurer and** a health maintenance organization shall notify an enrollee whose grievance is the subject of an appeal not less than seventy-two (72) hours prior to the meeting of the panel. ~~pursuant to IC 27-13-10-8.~~ The enrollee may waive the seventy-two (72) hour notice of the meeting of the panel. *(Department of Insurance; 760 IAC 1-59-12; filed Sep 30, 1998, 2:17 p.m.: 22 IR 450, eff Jan 1, 1999)*

SECTION 13. 760 IAC 1-59-14 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-59-14 Grievance procedures report form

Authority: IC 27-13-10-13; IC 27-13-35-1
Affected: IC 27-13-8-2

Sec. 14. The form required by section 4(a) of this rule is the following:

~~HMO~~ GRIEVANCE PROCEDURES REPORT
NAME: _____
FOR REPORTING PERIOD January 1, ____ through December 31, ____

Block 1 REPORTING ~~HMO~~ **COMPANY** INFORMATION

NAIC Group Code:	
Assumed business name(s):	
Address:	
General business telephone number:	
Grievance reporting - toll free number:	
Name, ~~and~~ telephone number, **and e-mail address** of contact person for grievance procedures:	

Languages in which grievances may be filed:	
Total number of Indiana enrollees at beginning of reporting period:	
Total number of Indiana enrollees at end of reporting period:	
Service area (use applicable county codes; **if the entire state, please indicate entire state rather than list all county codes):**	

Block 2 GENERAL INFORMATION

Number of grievances filed		Number of appeals filed	
Number of grievances resolved		Number of appeals resolved	
Number of grievances resolved with ~~HMO~~ **Company** position upheld		Number of appeals resolved with ~~HMO~~ position upheld	
Number of grievances resolved with ~~HMO~~ **Company** position overturned		Number of appeals resolved with ~~HMO~~ **Company** position overturned	
Number of grievances pending		Number of appeals pending	
Time to resolve grievances (average number of days)		Time to resolve appeals (average number of days)	

Block 3 **INTERNAL** GRIEVANCE AND APPEALS INFORMATION

NOTE: A grievance should not be recorded in more than one (1) category.

Basis	Number Filed	Company Position Upheld? Yes (#): No (#):	Number Pending	Average Number Of Days To Resolve	Appealed? Yes (#): No (#):	Company Position Upheld On Appeal? Yes (#): No (#):	Number Of Appeals Pending	Average Number Of Days To Resolve Appeals
DENIAL OR LIMITATION OF COVERED HEALTH CARE SERVICES								
Inpatient services								
Outpatient services								
Emergency services								
Mental or behavioral services								
Home health care								
Prescription drugs								
Equipment or supplies								
Laboratory services								
Experimental treatments								
Other services								
HEALTH CARE PROVIDERS **(for HMOs, LSHMOs, and Insurers with Network plans)**								
Quality of health care services								
No referral or expired referral								
Problem with particular provider not available								
Problem with number of providers available								
Problem with type of providers available								
Problem with provider location								
Problem getting appointment								
OTHER BASIS FOR GRIEVANCE								
Difficulty in enrolling/ other enrollment issues								
Problem with claim payment or handling								
Benefits limited or excluded								
Timeliness of decision making								
Other (attach additional sheets if necessary)								

Block 4 DESCRIPTION OF GRIEVANCE PROCEDURES

Please describe your grievance procedures. Attach additional sheets as necessary:

Block 5 DESCRIPTION OF APPEALS PROCEDURES

Please describe your appeals procedures. Attach additional sheets as necessary:

(Department of Insurance; 760 IAC 1-59-14; filed Sep 30, 1998, 2:17 p.m.: 22 IR 451, eff Jan 1, 1999)

SECTION 14. 760 IAC 1-59-13 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 22, 2002 at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on proposed amendments to set filing and implementation requirements for internal grievance procedures. Copies are available at the Web site for the Department of Insurance at www.state.in.us/idoi. Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Sally McCarty
Commissioner
Department of Insurance

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

Proposed Rule
LSA Document #02-180

DIGEST

Amends 844 IAC 2.2-2-1, 844 IAC 2.2-2-2, and 844 IAC 2.2-2-5 concerning certification of physician assistants. Amends 844 IAC 2.2-2-8 concerning fees for registration of physician assistants. Effective 30 days after filing with the secretary of state.

844 IAC 2.2-2-1 **844 IAC 2.2-2-5**
844 IAC 2.2-2-2 **844 IAC 2.2-2-8**

SECTION 1. 844 IAC 2.2-2-1 IS AMENDED TO READ AS FOLLOWS:

844 IAC 2.2-2-1 Applications
Authority: IC 25-22.5-2-7; IC 25-27.5-3-5
Affected: IC 25-22.5-1-2; IC 25-27.5

Sec. 1. (a) The application for certification of a physician assistant must be made upon forms supplied by the committee.

(b) Each application for certification as a physician assistant or for a temporary permit while waiting for the next committee meeting shall include all of the following information:

(1) Complete names, address, and telephone number of the physician assistant.

(2) Satisfactory evidence of the following:

(A) Completion of an **approved** educational program. ~~approved by the committee.~~

(B) Passage of the Physician Assistant National Certifying Examination administered by the NCCPA.

(C) A current NCCPA certificate.

(3) All names used by the physician assistant, explaining the reason for such name change or use.

(4) Date and place of birth of the physician assistant, and age at the time of application.

(5) Citizenship and visa status if applicable.

(6) Whether the physician assistant has been licensed, certified, or registered in any other jurisdiction and, if so, the dates thereof.

(7) Whether the physician assistant has had any disciplinary action taken against the license, certificate, or registration by the licensing or regulatory agency of any other state or jurisdiction, and the details and dates thereof.

(8) A complete listing of all places of employment, including:

(A) the name and address of employers;

(B) the dates of each employment; and

(C) employment responsibilities held or performed;

that the applicant has had since becoming a physician assistant in any state or jurisdiction.

(9) Whether the physician assistant is, or has been, addicted to, or is chemically dependent upon, any narcotic drugs, alcohol, or other drugs, and if so, the details thereof.

(10) Whether the applicant has been denied a license, certificate, approval, or registration as physician assistant by any other state or jurisdiction, and, if so, the details thereof, including the following:

(A) The name and location of the state or jurisdiction denying licensure.

(B) Certification, approval, or registration.

(C) The date of denial of the certification, approval, or registration.

(D) The reasons relating to the denial of certification, approval, or registration.

(11) Whether the physician assistant has been convicted of, or pleaded guilty to, any violation of federal, state, or local law relating the use, manufacturing, distributing, sale, dispensing, or possession of controlled substances or of drug addiction, and, if so, all of the details relating thereto.

(12) Whether the physician assistant has been convicted of, or pleaded guilty to, any federal or state criminal offense, felony, or misdemeanor, except for traffic violations that resulted only in fines, and, if so, all of the details thereto.

(13) Whether the physician assistant was denied privileges in

any hospital or health care facility, or had such privileges revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitation, and, if so, all of the details relating thereto, including the name and address of the hospital or health care facility, the date of such action, and the reasons therefore.

(14) Whether the physician assistant has ever been admonished, censured, reprimanded, or requested to withdraw, resign, or retire from any hospital or health care facility in which the physician assistant was employed, worked, or held privileges.

(15) Whether the physician assistant has had any malpractice judgments entered against him or her or settled any malpractice action or cause of action, and, if so, a complete, detailed description of the facts and circumstances relating thereto.

~~(16) A statement from the supervising physician that the physician assistant is, or will be, supervised by that physician.~~

~~(17) A description of the setting in which the physician assistant shall be working under the physician supervision.~~

~~(18) The name, business address, and telephone number of the physician under whose supervision the physician assistant will be supervised.~~

~~(19)~~ **(16)** One (1) passport-type photo taken of the applicant within the last eight (8) weeks.

(c) All information in the application shall be ~~typewritten, except the signature, and~~ submitted under oath or affirmation, subject to the penalties of perjury.

(d) Each applicant for certification as a physician assistant shall submit an executed authorization and release form supplied by the committee that:

(1) authorizes the committee or any of its authorized representatives to inspect, receive, and review;

(2) authorizes and directs any:

(A) person;
(B) corporation;
(C) partnership;
(D) association;
(E) organization;
(F) institute;
(G) forum; or
(H) officer thereof;

to furnish, provide, and supply to the committee all relevant documents, records, or other information pertaining to the applicant; and

(3) releases the committee, or any of its authorized representatives, and any:

(A) person;
(B) corporation;
(C) partnership;
(D) association;
(E) organization;
(F) institute;
(G) forum; or
(H) officer thereof;

from any and all liability regarding such inspection, review, receipt, furnishing, or supply of any such information.

(e) Application forms submitted to the committee must be complete in every detail. All supporting documents required by the application must be submitted with the application.

(f) Applicants for a temporary permit to practice as a physician assistant while waiting to take the examination or waiting for results of the examination must submit all requirements of subsection (b), except for subsection (b)(2)(B) and (b)(2)(C), in order to apply for a temporary permit.

(g) A temporary permit becomes invalid if the temporary permit holder fails to sit or fails to register for the next available examination. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-1; filed May 26, 2000, 8:52 a.m.: 23 IR 2498; errata filed Sep 21, 2000, 3:21 p.m.: 24 IR 382)*

SECTION 2. 844 IAC 2.2-2-2 IS AMENDED TO READ AS FOLLOWS:

844 IAC 2.2-2-2 Registration of supervising physician

Authority: IC 25-22.5-2-7; IC 25-27.5-3-5
Affected: IC 25-27.5-6

Sec. 2. (a) A physician ~~or osteopathic physician~~ licensed under IC 25-22.5 who intends to supervise a physician assistant shall register his or her intent to do so with the board on a form approved by the board prior to commencing supervision of a physician assistant. The supervising physician shall include the following information on the form supplied by the board:

(1) The name, business address, and telephone number of the supervising physician.

(2) The name, business address, telephone number, and certification number of the physician assistant.

(3) The current license number of the physician.

(4) A statement that the physician will be supervising no more than two (2) physician assistants, and the name and certificate numbers of the physician assistants he or she is currently supervising.

(5) A description of the setting in which the physician assistant will practice under the supervising physician, including the specialty, if any, of the supervising physician.

(6) A statement that the supervising physician:

(A) will exercise continuous supervision over the physician assistant in accordance with IC 25-27.5-6 and this article;
(B) shall review all patient encounters maintained by the physician assistant within twenty-four (24) hours after the physician assistant has seen a patient; and
(C) at all times, retain professional and legal responsibility for the care rendered by the physician assistant.

(7) Detailed description of the process maintained by the physician for evaluation of the physician assistant's performance.

(b) The supervising physician may not be the designated supervising physician for more than two (2) physician assistants and may not supervise more than two (2) physi-

cian assistants at one (1) time as the primary or designated supervising physician.

(c) The designated supervising physician is to accept responsibility of supervising the physician assistant in the absence of the primary supervising physician of record. Protocol is to be established by the physician practice.

~~(b)~~ **(d)** The supervising physician shall, within fifteen (15) days, notify the board when the supervising relationship with the physician assistant is terminated, and the reason for such termination. In addition, notification shall be submitted to the committee. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-2; filed May 26, 2000, 8:52 a.m.: 23 IR 2499; errata filed Sep 21, 2000, 3:21 p.m.: 24 IR 382)*

SECTION 3. 844 IAC 2.2-2-5 IS AMENDED TO READ AS FOLLOWS:

844 IAC 2.2-2-5 Privileges and duties
Authority: IC 25-22.5-2-7; IC 25-27.5-3-5
Affected: IC 25-22.5-1-2; IC 25-27.5

Sec. 5. (a) When engaged in the physician assistant's professional activities, a physician assistant shall wear a name tag identifying the individual as a physician assistant and shall inform patients that he or she is a physician assistant. A physician assistant shall not portray himself or herself as a licensed physician.

(b) A physician assistant shall ~~keep his or her certificate~~ **make** available for inspection at his or her primary place of business:

(1) the physician assistant's certificate issued by the committee;
(2) a statement from the supervising physician that the physician assistant is, or will be, supervised by that physician;
(3) a description of the setting in which the physician assistant shall be working under the physician supervision;
(4) a job description with duties to be performed by the physician assistant and to be signed by both the physician and physician assistant; and
(5) the name, business address, and telephone number of the physician under whose supervision the physician assistant will be supervised.

(c) The physician assistant may perform, under the supervision of the supervising physician, such duties and responsibilities within the scope of the supervising physician's practice. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-5; filed May 26, 2000, 8:52 a.m.: 23 IR 2500)*

SECTION 4. 844 IAC 2.2-2-8 IS AMENDED TO READ AS FOLLOWS:

844 IAC 2.2-2-8 Certification of physician assistants; fees
Authority: IC 25-22.5-2-7; IC 25-27.5-3-5
Affected: IC 25-22.5-1-1.1; IC 25-22.5-1-2; IC 25-27.5

Sec. 8. (a) A nonrefundable fee of ~~thirty~~ **one hundred** dollars ~~($30)~~ **($100)** shall accompany the initial application for ~~registration.~~ **certification.**

(b) A nonrefundable fee of ~~twenty~~ **fifty** dollars ~~($20)~~ **($50***)* shall accompany an application for changing supervising physicians.

(c) A fee of ~~twenty~~ **fifty** dollars ~~($20)~~ **($50)** shall accompany each ~~biannual~~ **biennial** application for renewal of the physician assistant certificate. **A fee of fifty dollars ($50) shall accompany each request for a temporary permit in addition to the fee for initial certification.**

(d) A fee of ten dollars ($10) shall accompany each request for verification of licensure to another state.

(e) All such fees are nonrefundable. *(Medical Licensing Board of Indiana; 844 IAC 2.2-2-8; filed May 26, 2000, 8:52 a.m.: 23 IR 2501)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 24, 2002 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Medical Licensing Board of Indiana will hold a public hearing on proposed amendments concerning certification of physician assistants and fees for certification of physician assistants. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule
LSA Document #01-369

DIGEST

Amends 876 IAC 4-2-2 to modify the curricula for salesperson under IC 25-34.1-9-11(a)(1). Amends 876 IAC 4-2-3 to modify the curricula for broker under IC 25-34.1-9-11(a)(1). Amends 876 IAC 4-2-9 to require licensees to obtain six hours of continuing education to reactivate an inactive license during a two year licensure period and to require a licensee who has

reactivated their license to obtain 10 hours of continuing education in order to renew the license at the end of the two year licensure period. Effective 30 days after filing with the secretary of state.

876 IAC 4-2-2
876 IAC 4-2-3
876 IAC 4-2-9

SECTION 1. 876 IAC 4-2-2 IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-2 Curricula for salespersons under IC 25-34.1-9-11(a)(1)
Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 2. (a) This section establishes the six (6) hour continuing education requirement under ~~IC 25-34.1-9-11(1)~~ **IC 25-34.1-9-11(a)(1)** for salespersons.

(b) To qualify for license renewal, salespersons must have two (2) hours of continuing education **instruction** in ~~each of any~~ three (3) of the following:

(1) **Indiana** licensure and escrow law.
(2) **Indiana** agency law.
(3) **Fair housing and** civil rights law.
(4) Listing contracts and purchase agreements.
(5) Settlement procedures.
(6) Antitrust.
(7) Environmental issues.
(8) Ethics and standards.

(Indiana Real Estate Commission; 876 IAC 4-2-2; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

SECTION 2. 876 IAC 4-2-3 IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-3 Curricula for brokers under IC 25-34.1-9-11(a)(1)
Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 3. (a) This section establishes the six (6) hour continuing education requirement under ~~IC 25-34.1-9-11(1)~~ **IC 25-34.1-9-11(a)(1)** for brokers.

(b) To qualify for license renewal, brokers must have two (2) hours **of continuing education instruction** in ~~each of any~~ three (3) of the following:

(1) **Indiana** licensure and escrow law.
(2) **Indiana** agency law.
(3) **Fair housing and** civil rights law.
(4) Listing contracts and purchase agreements.
(5) Settlement procedures.
(6) Antitrust.
(7) Environmental issues.
(8) Ethics and standards.

(Indiana Real Estate Commission; 876 IAC 4-2-3; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112, eff Jan 1, 1997; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

SECTION 3. 876 IAC 4-2-9, AS AMENDED AT 25 IR 104, SECTION 10, IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-9 License activation
Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 9. (a) In order to reactivate an inactive license at the time of license renewal, the licensee must have obtained all sixteen (16) hours of continuing education which would have been required for renewal had the license been active.

(b) In order to reactivate an inactive license during a two (2) year licensure period, the licensee must obtain the ~~sixteen (16)~~ **six (6)** hours of continuing education required by ~~IC 25-34.1-9-11(1) and IC 25-34.1-9-11(2)~~ **IC 25-34.1-9-11(a)(1)** for that two (2) year licensure period and pay a ten dollar ($10) fee.

(c) A licensee who has reactivated the licensee's license during a two (2) year licensure period under subsection (b) must obtain the ten (10) hours of continuing education required by IC 25-34.1-9-11(a)(2) in order to renew the license at the end of the two (2) year licensure period.
(Indiana Real Estate Commission; 876 IAC 4-2-9; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:05 a.m.: 25 IR 104)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 24, 2002 at 10:40 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 2, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to require licensees to obtain six hours of continuing education to reactivate an inactive license during a two year licensure period, to require a licensee who has reactivated their license to obtain 10 hours of continuing education in order to renew the license at the end of the two year licensure period, to modify the curricula for salespersons under IC 25-34.1-9-11(a)(1), and to modify the curricula for brokers under IC 25-34.1-9-11(a)(1). Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Indiana Professional Licensing Agency

Intent to Readopt Rules

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-275

Readopts rules in anticipation of IC 4-22-2.5, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rule to be readopted without changes is as follows:

405 IAC 4-1 Qualified Nonprofit Agencies

Questions or comments on the readoption may be directed by mail to the Division of Disability, Aging, and Rehabilitative Services, Legal Division, MS27, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. Statutory authority: IC 5-22-13-1.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-262

Readopts rules in anticipation of IC 4-22-2.5, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rules to be readopted without changes are as follows:

460 IAC 1-3-3 Accounting records; retention schedule; audit trail; accrual basis; segregation of accounts by nature of business and by location
460 IAC 1-3-6 Active providers; rate review; annual request; additional requests; requests due to change in law; request concerning capital return factor; computation of factor
460 IAC 1-3-7 Request for rate review; budget component; occupancy level assumptions; effect of inflation assumptions
460 IAC 1-3-12 Allowable costs; capital return factor

Questions or comments on the readoption may be directed by mail to the Division of Disability, Aging, and Rehabilitative Services, Legal Division, MS27, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. Statutory authority: IC 12-8-6-5; IC 12-8-8-4; IC 12-9-2-3.

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

LSA Document #02-273

Readopts rules in anticipation of IC 4-22-2.5, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rule to be readopted without changes is as follows:

550 IAC 4 ANNUAL COMPENSATION LIMITS; IMPLEMENTATION OF ANNUAL COMPENSATION LIMITATIONS PURSUANT TO INTERNAL REVENUE CODE SECTION 401(a)(17)

Questions or comments on the readoption may be directed by mail to the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204 or by electronic mail to tdavidson@trf.state.in.us. Statutory authority: IC 21-6.1-3-6.

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #02-272

Readopts rules in anticipation of IC 4-22-2.5, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rules to be readopted without changes are as follows:

905 IAC 1-39 Horse Track and Satellite Facility Permits
905 IAC 1-40 Catering Halls and Supplemental Caterer's Permits
905 IAC 1-41 Separation of Family Room from Barroom

Questions or comments on the readoption may be directed by mail to the Alcohol and Tobacco Commission, Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana 46204. Statutory authority: IC 7.1-2-3-4; IC 7.1-2-3-6; IC 7.1-2-3-7; IC 7.1-3-17.7-5; IC 7.1-3-20-24.

60 Day Requirement (IC 4-22-2-19)

INDIANA JUDICIAL CENTER

September 6, 2002

Senator Luke Kenley, Chairperson
Administrative Rules Oversight Commission
c/o Susan Kennell, Attorney for the Commission
State House, Room 301

RE: SEA 343–Rules under IC 12-23-14.5-9

Dear Senator Kenley,

During the 2002 session of the Indiana General Assembly, a new chapter on drug courts, IC 12-23-14.5, was added to the Indiana Code effective July 1, 2002. The new chapter requires the Board of Directors of the Judicial Conference of Indiana to make rules concerning standards, requirements, and procedures for initial certification, recertification and decertification of drug courts. IC 12-23-14.5-9(e). The statute also permits the Board of Directors to adopt rules concerning educational and occupational qualifications needed to be employed by a drug court. While the Judicial Center, as the staff agency of the Judicial Conference, is in the process of creating the certification program contemplated by this statute, this task entails comprehensive development of an entire certification scheme. In working with existing drug courts to determine the appropriate scope of the new certification program it has become clear that it will take longer than the time allowed under IC 4-22-2-19(c) to develop a draft ready for public comment.

Because oversight of drug courts has been directed to the judiciary and the judiciary is not subject to IC 4-22-2, we do not believe the requirements of IC 4-22-2 can be appropriately applied to rules adopted by the Judicial Conference. However, until such time as we can have the reference to IC 4-22-2 removed from IC 12-23-14.5-9(d)(6), we are writing this letter to advise the Commission that we are not able to comply with the 60 day deadline described in IC 4-22-2-19.

Sincerely,

Jane Seigel
Executive Director

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #01-399

August 27, 2002

Chairperson, Administrative Oversight Committee
c/o George Angelone
Legislative Services Agency

Dear Mr. Chairman:

The Indiana State Department of Insurance is in the process of modifying the current rules for the sale of credit insurance in Indiana. The proposed changes to the rules are substantial as the rules have not been amended in several years. Traditionally, when amending a rule that require significant changes, the department uses a method of repealing the current rule and replacing it with a new rule rather than striking large portions of the current rule and adding large amounts of new text. That method was used in this case.

Statutory authority for adoption of a credit insurance rule has been in place for many years. Under Ind. Code 4-22-2-19, promulgation of rules require beginning the rulemaking process within 60 days of the enactment of such statutory authority unless an exception applies. The rulemaking process did not begin for these rules within 60 days of the effective date of the statutory authority. Rules were already in place pursuant to the statutory authority enacted many years ago. Ind. Code 4-22-2-19(a)(2) excepts rules from the application of the 60 day requirement if they are amending existing rules. Our proposed rules do not fall under the amendment exception as the proposed rules will replace the current rules and is not in a strictly amendment format, but the department's intention is to amend the current rules (760 IAC 1-5 and 760 IAC 1-14).

The department is providing this written notification to the committee to explain why this rule could not comply with the timeframe specified in Ind. Code 4-22-2-19(c)(1). The department's rulemaking action to update and amend the current rule was undertaken as soon as practicable once changes in the current rule were needed.

If you need additional information please contact Amy Strati at (317) 232-0143.

Very truly yours,

Amy E. Strati
Chief Counsel

365 Day Notice (IC 4-22-2-25)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-402

August 7, 2002

Representative Jerry Denbo, Chair
Administrative Rules and Oversight Committee

Re: Notice of Delay in Adoption of Rules incorporating minor changes and corrections in the Real Property Assessment Guidelines for 2002–Version A, published May 10, 2001. LSA Document # 01-402 *(See proposed LSA Document #01-402 in this issue of the Indiana Register at 26 IR 86.)*

Notice of Delay

In accordance with IC 4-22-2-25, the Department of Local Government Finance has determined that it may not be able to adopt, and obtain the Governor's approval of, the proposed rule incorporating minor changes and corrections to the Real Property Assessment Guidelines for 2002–Version A, published by the state board of tax commissioners and dated May 10, 2001, (LSA Document #01-402) within one (1) year of the date of notice of intent to adopt the rule as published under IC 4-22-2-23.

Reasons for Delay

The proposed rule will incorporate various changes in the Real Property Assessment Guidelines for 2002. The rule will correct certain typographical errors and make minor corrections in the Guidelines. Many of these corrections have been brought to the attention of assessing staff and officials as a result of hands-on use of the Guidelines during the reassessment process. Changes to the Guidelines have already been distributed to assessing officials and the public and published as non-rule policy documents in the March Indiana Register, 25 IR 2072 (3/1/02), and the May Indiana Register, 25 IR 2626 (5/10/02). Further minor corrections will be disseminated to officials shortly and published in the September and October Indiana Registers.

The State Tax Board published the notice of intent for LSA Document 01-402 in the Indiana Register on December 1, 2001. The Department of Local Government Finance, as successor to the State Board of Tax Commissioners, expects to publish the proposed rule in the September or October 2002 Indiana Register. The Department expects to adopt the rule by the end of November 2002.

Expected Adoption Date

The Department of Local Government Finance anticipates that it will be able to adopt the rule and obtain the Governor's approval, before February 1, 2003. Because the stated "expected date" will control the validity of the rule, it expects to adopt and obtain the Governor's approval of the rules governing the assessment of annually assesses manufactured homes (LSA Doc. #01-367), before March 1, 2003.

Your understanding of these circumstances is greatly appreciated. If you need additional information please do not hesitate to contact me at 232-4361. Thank you.

Sincerely,

Beth Henkel
General Counsel

Copy to:
Senator Luke Kenley
George Angelone, Attorney for the Committee

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-402

September 10, 2002

Representative Jerry Denbo, Chair
Administrative Rules and Oversight Committee

Re: Correction in August 7, 2002, Notice of Delay in Adoption of Rules LSA Document #01-402

On August 7, 2002, the Department of Local Government Finance notified you that it had determined that it may not be able to adopt, and obtain the Governor's approval of, the proposed rule incorporating minor changes and corrections to the Real Property Assessment Guidelines for 2002–Version A, published by the state board of tax commissioners and dated May 10, 2001, (LSA Document # 01-402) within one (1) year of the date of notice of intent to adopt the rule as published under IC 4-22-2-23. That notice stated that the expected adoption date was March 1, 2003.

We have been informed that there was a scrivener's error in that notice. Please be advised that the last paragraph of the letter should read:

Expected Adoption Date

The Department of Local Government Finance anticipates that it will be able to adopt the rule and obtain the Governor's approval, before February 1, 2003. Because the stated "expected date" will control the validity of the rule, it expects to adopt and obtain the Governor's approval of the rules before March 1, 2003.

We wanted to draw this issue to your attention in order that there be no misunderstanding. Your understanding of these circumstances is greatly appreciated. If you need additional information please do not hesitate to contact me at 233-4361. Thank you.

Sincerely,

Beth Henkel
General Counsel

DEPARTMENT OF INSURANCE

August 21, 2002

Bulletin 112

Withdrawal of Bulletin 109, Reinstatement of Bulletin 69

The Commissioner has completed a review of the impact of Bulletin 109 on covered individuals, employers, insurers and the Indiana Comprehensive Health Insurance Association. As a result of this review, the Commissioner is withdrawing Bulletin 109 and reinstating Bulletin 69.

INDIANA DEPARTMENT OF INSURANCE
Sally McCarty, Commissioner

DEPARTMENT OF STATE REVENUE

42970008.LOF

LETTER OF FINDINGS NUMBER: 97-0008
International Fuel Tax Agreement
For the Period 1993–95

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. International Fuel Tax Agreement ("IFTA") – Imposition of Tax – Audited Total Miles – Audit Methodology
Tax Procedure – Protests – Burden of Proof

Authority: IC § 6-8.1-3-14(b) (1988 and 1993); *State v. Huffman*, 643 N.E.2d 899 (Ind. 1994); *Peabody Coal Co. v. Ralston*, 578 N.E.2d 751 (Ind. Ct. App. 1991); *Porter Mem'l Hosp. v. Malak*, 484 N.E.2d 54 (Ind. Ct. App. 1985); *Canal Square Ltd. Partnership v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801 (Ind. Tax Ct. 1998); *Longmire v. Indiana Dep't of State Revenue*, 638 N.E.2d 894 (Ind. Tax Ct. 1994); *Bullock v. Foley Bros. Dry Goods Corp.*, 802 S.W.2d 835 (Tex. App. 1990); IFTA art. XVII, § G (1993); IFTA Procedures Manual art. VI, § A.1 and -.3 (1993); IFTA Audit Manual art. VII, § K.3 (1993)

The taxpayer argues that the samples of its fleet that the field auditors audited were too small.

II. IFTA – Imposition of Tax – Audited IFTA Jurisdiction Miles – Audit Methodology
IFTA/Tax Administration – Alleged Audit Bias

Authority: IND. R. EVID. 201(a)(2); *Liteky v. United States,* 114 S.Ct. 1147 (U.S. 1994); *Bethel Conservative Mennonite Church v. C.I.R.,* 746 F.2d 388 (7th Cir. 1984); *In re J. P. Linahan, Inc.,* 138 F.2d 650 (2d Cir. 1943); *Underwood v. Fairbanks North Star Borough*, 674 P.2d 785 (Alaska 1983); *Adams v. Harrington,* 14 N.E. 603 (Ind. 1887); *Kahn v. Cundiff,* 533 N.E.2d 164 (Ind. Ct. App.), *aff'd and adopted* 543 N.E.2d 627 (Ind. 1989); *Indiana Liberty Mut. Ins. Co. v. Strate,* 148 N.E. 425 (Ind. App. 1925); *Micheli Contracting Corp. v. New York State Tax Comm'n*, 486 N.Y.S.2d 448 (N.Y. App. Div. 1985); *Ristorante Puglia, Ltd. v. Chu*, 478 N.Y.S.2d 91 (N.Y. App. Div. 1984); *W.T. Grant Co. v. Joseph*, 159 N.Y.S.2d 150 (N.Y. App. Div. 1957); *Ohio Fast Freight, Inc. v. Porterfield,* 278 N.E.2d 361 (Ohio 1972); *Midwest Transfer Co. v. Porterfield,* 235 N.E.2d 511 (Ohio 1968); *National Freight, Inc. v. Limbach,* 1993 Ohio App. LEXIS 1666 (Ohio Ct. App. Mar. 25, 1993); 49 C.F.R. §§ 395.3 and 395.8 (1993-2001); IFTA arts. I § K, and V § H (1993); IFTA Procedures Manual art. VI § A.3 (1993); IFTA Audit Manual arts. II § E and VII § K.3 (1993); Code of Judicial Conduct Canon 4E(1)(a) (1993); CODIFICATION OF ACCOUNTING STANDARDS AND PROCEDURES, Statement on Auditing Standards No. 1, § 220.02 and -.04 (Auditing Standards Bd., American Inst. of Certified Pub. Accountants 1972 and 2001)

The taxpayer asserts that the error factors the auditors used to compute audited IFTA jurisdiction miles were too large because the auditors failed to use any audited mileages that were less than those the taxpayer reported on its IFTA returns. The taxpayer also submits that the auditors made errors in reconstructing the routing of certain vehicles. Lastly, the taxpayer contends that the methodology the field auditors used to audit total IFTA jurisdiction miles proves bias in the Department's favor in conducting the audit.

III. IFTA – Credits Against Tax – Disallowed Excess Tax-Paid Fuel Credit – Audit Methodology

Authority: IC § 6-6-4.1-24(a) (1988 and Supp. 1992; 1993); *Kahn v. Cundiff,* 533 N.E.2d 164 (Ind. Ct. App.), *aff'd and adopted* 543 N.E.2d 627 (Ind. 1989); IFTA arts. III § C and VII §§ B to D (1993); IFTA Procedures Manual arts. II § A and VI § A.3 (1993); IFTA Audit Manual arts. V §§ B. 2 and B.2.a and VII § A (1993)

The taxpayer contends that the field auditors should have used a sampling rather than conducting a census of the taxpayer's tax-paid fuel receipts.

IV. IFTA – Credits Against Tax –(4th Quarter 1994 and 1st Quarter 1995 only) – Disallowed Excess Tax-Paid Fuel Credit – Reallocation from Florida to Correct Jurisdictions

Authority: IC § 6-6-4.1-24(a) (1988 and Supp. 1992; 1993); IFTA arts. III § C and VII §§ B to D (1993); IFTA Procedures Manual arts. II § A and VI § A.3 (1993); IFTA Audit Manual arts. V §§ B.2 and B.2.a (1993)

The taxpayer argues that the auditors should allocate certain tax-paid fuel receipts to IFTA member jurisdictions other than Florida.

V. IFTA – Credits Against Tax (All Test Quarters) – Disallowed Excess Tax-Paid Fuel Credit – Census Population Adjustments – After-Discovered On-Road Fuel Purchase Receipts and Incorrect Auditor Data Entries

Authority: IC § 6-6-4.1-24(a) (1988 and Supp. 1992; 1993); IFTA arts. III § C and VII §§ B to D (1993); IFTA Procedures Manual arts. II § A and VI § A.3 (1993); IFTA Audit Manual arts. V §§ B.2 and B.2.a (1993)

The taxpayer asserts that the auditors should add certain on-road fuel purchase receipts the taxpayer discovered after the original audit to the census population and to correct certain data entry errors they allegedly made.

VI. IFTA/Tax Administration – Negligence Penalty

Authority: IC §§ 6-6-4.1-23(b) and -8.1-10-2.1(d) (1988 and Supp. 1992; 1993); 45 IAC § 15-11-2(b) and (c) (1988 and 1992)

The taxpayer submits that the Department should waive the negligence penalty assessed against the taxpayer.

STATEMENT OF FACTS

A. INTRODUCTION

1. The Taxpayer/Licensee, Its Status Under IFTA and Its Fleet

During calendar years 1993-95 ("the audit period") the taxpayer, a corporation, was a common motor carrier. The taxpayer conducted operations in almost all of the forty-eight contiguous states of the United States during the audit period, but the original field and supplemental audits indicate that the bulk of the taxpayer's miles traveled were accrued east of the Mississippi River. It operated a mixed fleet of owned and leased diesel-fueled road tractors. The taxpayer owned from twelve hundred to fifteen hundred road tractors and leased another two hundred fifty to three hundred from owner-operators, for a combined fleet ranging from fourteen hundred fifty to eighteen hundred road tractors in operation during the audit period.

The taxpayer was incorporated, and during the audit period had its principal place of business, in New Jersey. However, throughout the audit period it held a license from this Department under the International Fuel Tax Agreement (February 1993) (superseded January 1996, effective July 1, 1998, rev. Jan. 2002) (hereinafter "IFTA"). The taxpayer was entitled to apply for an IFTA license from Indiana by virtue of former IFTA article V, § H, which allowed a person based in a non-member jurisdiction to apply to any member jurisdiction in which it operated. New Jersey was not an IFTA member jurisdiction at any time during the audit period, but Indiana was a member throughout those years. The taxpayer (hereinafter also referred to as "the licensee") had a terminal in Indiana until the first quarter of 1995 and operated on Indiana's highways during all three years of the audit period. The taxpayer was therefore entitled to apply for and receive from this Department an IFTA license that, once issued, made Indiana the taxpayer's base jurisdiction for purposes of any IFTA audit. *See id.* art. V., § H (requiring such an applicant to agree to make operational records available in the licensing jurisdiction for audit or to pay that jurisdiction's auditors' reasonable per diem travel expenses for an audit conducted outside the jurisdiction). All of the tractors were "qualified motor vehicles" as former IFTA article I, § K defined that term, making their fuel consumption subject to IFTA.

2. The Licensee's Mileage Record Keeping System

The auditors proposed to levy the assessment resulting from the field audit for two reasons. One was their disallowing of credit taken for gallons of fuel on which the taxpayer had reported that it had paid tax owed to an IFTA member jurisdiction at the time of purchase (hereinafter "IFTA jurisdiction tax-paid gallons"). As the Department will discuss below, the auditors reduced that part of the assessment in the supplemental audit, which they conducted while this protest was pending. However, the majority of the proposed assessment in both the original and supplemental audits was the result of the licensee's underreporting the miles its fleets traveled, both in all jurisdictions and in IFTA member jurisdictions. This underreporting was in turn the result of the system the taxpayer used during the audit period to record and report miles traveled.

During the pre-fieldwork preparation phase of the audit the licensee provided the auditors with copies of several computer printouts. These printouts were entitled "Fuel and Mileage Activity Report," "Miles and Gallons Summary by Vehicle" and "Fuel and Mileage Recap by State." The Fuel and Mileage Activity Report was the record that the taxpayer kept during the audit period to document trip detail for individual tractors. The licensee's dispatch and payroll office prepared that report. The dispatch and payroll office would enter into its computer the tractor unit number, origin of the trip, any locations at which fuel was withdrawn from bulk storage or bought, and the destination of the trip. A mileage software program calculated the miles traveled using the "most practical route" option. The taxpayer also used the resulting mileages in the Miles and Gallons Summary by Vehicle and Fuel and Mileage Recap by State reports, and in turn used the latter printout to prepare its IFTA-101 returns during the audit period.

The licensee did not use trip data from any records its drivers maintained during the audit period in preparing those reports. In particular, the taxpayer did not require its drivers to fill out the Individual Vehicle Mileage Report ("IVMR") forms recommended for use under IFTA and the International Registration Plan, or equivalent source records of operations of individual qualified motor vehicles. The only driver-maintained activity record in use during the audit period was a "Driver's Report and Daily Log" ("driver's log") that, as its name implies, was driver-specific rather than vehicle-specific. The top three lines of the driver's log included blanks

for the signatures of the driver and any co-driver, the date of the activities, the total miles each driver drove, the total miles traveled and the unit number/s of the tractor/s being operated. Below those lines, the upper left quadrant displayed the horizontal version of the graph grid required by the regulations of the United States Department of Transportation (hereinafter "USDOT") to record driver duty status and the location that any change in that status occurred. The horizontal bar was subdivided into rows for the four duty statuses in which that driver could be engaged during any given twenty-four hours (listed in the left margin as being Off-Duty, Sleeper Berth, Driving and On Duty (Not Driving)). The grid consisted of vertical hash marks for each row in the bar that divided a twenty-four hour period into fifteen-minute increments. A driver would use this graph to document to the nearest quarter hour the total time spent in a given status that day and the approximate time at which that status changed. Drivers of the sample units were better about completing this part of the log, and ordinarily would document not only the time, but also would note the city and state, at which a change in duty status occurred, thereby incidentally reflecting that driver's general route of travel that day. However, this part of the form was not designed to include, nor did the drivers note, the specific highway/s the driver took between cities.

The upper right corner of the form had boxes in which to record the beginning and ending hubometer readings of the vehicle the driver was operating and the total miles traveled. The right edge included a Fuel and Mileage Section consisting in part of boxes in which the driver could enter up to two unit numbers, the starting date, the starting city and state, the ending date and destination or final city and state reached. The Fuel and Mileage Section also had columns in which the driver could list the state in which s/he was traveling, the highway used and date of use, the beginning speedometer (sic; presumably odometer) reading and fuel purchased. The drivers regularly filled in the graph grid and hubometer readings, but did not consistently fill in the columns for state and route of travel or beginning odometer reading. The licensee therefore could not have used the Driver Daily Logs as a source record for the mileage figures in the printouts. The taxpayer's Fuel Manager admitted to the auditors during their first of two field visits to the taxpayer's headquarters that it had not used the logs to report miles. The auditors also discovered that they were unable to trace the driver's logs back to the Fuel and Mileage Activity Report.

B. THE AUDIT

1. Sampling Methodology and the Auditors' Sampling Decisions

The size of the licensee's combined fleets made it impractical to audit the sum total of its taxable activity (called a "census audit") for the three-year audit period. For that reason, during pre-fieldwork preparation the auditors decided initially to conduct what is called a "sample audit." The procedure used in such an audit is exactly what its name implies. Typically, the auditor/s select from a taxpayer's records for one reporting period of each year of the audit period a sample of each quantifiable category of data that the tax computation formula uses. If any data appears to the auditor/s to be an isolated error of the taxpayer in keeping its records or not to reflect its activity accurately (for example, a seasonal fluctuation), the auditor/s eliminate that data from the sample and, if appropriate, replace it with other selected data in the same category and period. The sum of the sampled data is then divided into the number for the same data and period as reported on the tax return or supporting schedule/s for that period. The resulting quotient is an "error factor" that represents the estimated difference of the activity that actually occurred from the activity the taxpayer reported. The auditor/s then use that error factor as a multiplier, the multiplicand being the figure for the same category reported on the return or supporting schedule/s for each period of the year that was not sampled. The product of this latter computation is the audited/adjusted figure for that category and period, which the auditor/s then insert into the computation formula. The auditor/s then apply this formula to all of the audited/adjusted figures arrived at for that reporting period to compute the audited tax liability for that period and to propose an assessment to the taxpayer in that amount. Using this procedure the present auditors, as previously noted, audited for and adjusted three kinds of data. These categories were total miles traveled in IFTA and non-IFTA jurisdictions ("audited total miles"); total miles traveled in each IFTA jurisdiction ("audited IFTA miles" or "audited IFTA jurisdiction miles"); and gallons of motor fuel on which the licensee had paid tax to an IFTA jurisdiction ("audited IFTA tax-paid gallons").

The auditors selected as their sample reporting periods the fourth quarter of 1993, the third quarter of 1994 and the fourth quarter of 1995. They selected the first two quarters at random and the last one at the request of the licensee, based on its having changed computer systems in that quarter. During pre-fieldwork preparation, using a master list of the taxpayer's powered units and the "Miles and Gallons Summary by Vehicle," the auditors selected as their samples for each test quarter every twentieth to twenty-fifth tractor in operation during that quarter, skipping any such unit if its records indicated it had traveled no or few miles in IFTA member jurisdictions. However, when the auditors made their first field visit to the licensee's New Jersey headquarters, they discovered that during the audit period the drivers of the selected tractors had not prepared IVMRs or equivalent source records that set out the details of individual trips. This fact necessarily forced the auditors to review the drivers' logs and use them as source mileage records instead. In the case of some units these logs were missing or illegible. Where such was the case, the auditors reviewed the records of other units and substituted tractors into the samples that had more complete and legible driver's logs than the ones that were not auditable. The auditors' intent was to select at least twenty (20) units to sample. The samples selected, as ultimately revised, totaled twenty-one (21) tractors for the fourth quarter of 1993, thirty-two (32) tractors for the third quarter of 1994 and twenty-three (23) tractors for the fourth quarter of 1995. (The auditors drew no distinctions between owned and leased tractors in the samples as ultimately constituted.) However, the taxpayer's Fuel Manager objected to the auditors at least twice about what she characterized as the large sizes of these samples.

2. The Auditing of Total Miles and Total IFTA Jurisdiction Miles

a. Audited Miles Data Entry and Database Creation

As previously mentioned above, the auditors were unable to trace the drivers' logs back to the taxpayer's Fuel and Mileage Activity Report. The auditors therefore used a mileage calculation software program (different from the one the taxpayer had used) to compute the "most practical route" and corresponding mileages between the locations documented on the graph grids of the sample units' drivers' logs. They then entered these mileage figures, together with the mileages derivable from such routing information as was recorded in the Fuel and Mileage Sections of the few driver's logs on which it appeared, into their auditing software. The auditors used these data entries to create databases of audited total miles and audited IFTA miles traveled in each IFTA member jurisdiction in which the licensee had operated for each sample quarter. The auditors entered into each database the greater of the mileage figure they had audited from the driver's logs or that the taxpayer had reported on the "Miles and Gallons Summary by Vehicle," and thus on the IFTA-101 return. (Where there was no driver's log, or the auditors could not determine an audited miles figure from an available log, for a particular tractor, they accepted the reported miles figure.) The auditors had two reasons for using the greater of audited or reported miles. The first was that it took a minimum number of miles to drive a given route between two points (whether the auditors' software or, less frequently, the driver's log specified the route). If the taxpayer reported a mileage figure for that route that was less than that minimum, the auditors presumed that the reported figure had been impossible to achieve and was therefore wrong, and they increased the audited mileage to, but not above, the minimum. The second reason applied where a reported mileage exceeded the minimum. In that situation the logs did not justify an audited miles figure that was less than the reported miles because, with rare exceptions, the logs did not identify the precise roads on which the driver had traveled. The auditors therefore had no, or insufficient, evidence to support reducing the reported miles figure on the theory that a routing, and by extension a reporting, error had been made.

The auditors had to enter more mileage data into the audited IFTA jurisdiction miles database for 1994 and 1995 than they did for 1993, both as a result of the larger sample sizes and the entry of several states in which the taxpayer operated into IFTA during the latter two years. Florida, Illinois, Louisiana, Mississippi, Oregon and Tennessee joined in 1994, and New Mexico, Ohio and Texas joined in 1995. (Almost 25 percent of the miles that the taxpayer reported during the audit period were driven in Texas.) As a result, while the auditors audited miles for only 20 IFTA jurisdictions for 1993, they did so for 26 IFTA jurisdictions for 1994 and 29 IFTA jurisdictions for 1995. The addition of these new jurisdictions necessarily increased the licensee's audited IFTA jurisdiction miles driven in 1994 and 1995.

b. Computation of Audited Miles and Miles Error Factors

Once the auditors completed entering the mileage data for the revised samples, they then printed summaries for each unit of audited total miles and audited IFTA miles in each member jurisdiction in which the tractor had operated during the sample quarter. The auditors then compared each unit's audited total miles or audited IFTA jurisdiction miles figure to its reported total miles or reported IFTA jurisdiction miles figure, respectively, and again used the higher of audited or reported miles as the tractor's audited miles figure. The auditors then added the audited mileages per tractor to arrive at figures for each quarter's sample for audited total miles and audited IFTA miles for each jurisdiction in which the taxpayer had operated during that quarter. Lastly, the auditors divided the sample's audited total miles or audited IFTA jurisdiction miles into the sample's reported total miles or reported IFTA jurisdiction miles, respectively, to arrive at error factors for total miles and for miles for each IFTA jurisdiction in which the licensee had operated during that quarter. The resulting error factors indicated increases of audited total miles over reported total miles of 6.8 percent for 1993, 7.3 percent for 1994, 7.4 percent for 1995 and an approximate average variance of 7.2 percent for the audit period. There were also increases of audited total IFTA jurisdiction miles over reported total IFTA jurisdiction miles. For 1993 the increase ranged from 0.0 percent for Colorado and Nevada to 40.2 percent for Arizona and an approximate average increase of 9.5 percent in all jurisdictions that were IFTA members that year and in which the sample units for that year operated. In 1994 the increase ranged from 0.0 percent for Minnesota, Nevada, Oregon and Wisconsin to 77.1 percent for Missouri and an approximate average increase of 17.0 percent in all jurisdictions that were IFTA members that year and in which the sample units for that year operated. For 1995 the increase ranged from 0.0 percent for Nevada to 62.7 percent for Mississippi and an average increase of 15.3 percent in all jurisdictions that were IFTA members that year and in which the sample units for that year operated. (The auditors did not project error factors for the third quarter of 1994 for Idaho, Utah or Washington. Those factors were either unusually high or low because of the relatively few miles the licensee's tractors had traveled in those states in that sample quarter. The auditors treated the audited miles for those jurisdictions as isolated errors and used those miles only in the quarter in which they were discovered.)

3. The Auditing of Tax-Paid Fuel, Including the Supplemental Audit

a. The Decision to Conduct a Census Audit of Tax-Paid Fuel in the Sample Quarters

The auditors also discovered during their first field visit that the taxpayer kept its fuel records in envelopes labeled by jurisdiction rather than by tractor. They totaled fuel for all states to obtain audited total gallons figures for the sample quarters. The audited total gallons figures each turned out to be less than the respective reported total gallons figures for those quarters. The auditors therefore left the latter figures unchanged and focused on IFTA jurisdiction tax-paid gallons. Only ten days had been allocated for their first field visit. Considering this circumstance, the auditors decided that sorting through the jurisdiction envelopes

to match fuel invoices to the various sample units would be too cumbersome and time-consuming to justify auditing fuel on a sample basis. They therefore modified their pre-fieldwork decision to conduct a sample audit, but solely as to tax-paid fuel. The auditors decided instead to conduct a full census audit of tax-paid fuel consumed in the sample quarters. However, they would still use the resulting data to calculate tax-paid fuel error factors for each IFTA jurisdiction in which the licensee had operated in that quarter, which they then would project to each non-sample quarter in that year.

b. The Isolated Errors, Including the Reallocation of Florida Tax-Paid Fuel for 1994-95

However, the major part of the auditors' adjustment to tax-paid fuel was the result not of their use of census methodology or error factors, but of isolated errors in non-sample quarters. The largest such adjustment the auditors made, and the only one in issue in this protest, was to tax-paid fuel for Florida. The auditors, in examining the taxpayer's returns, had noticed that reported Florida tax-paid fuel had substantially increased in the fourth quarter of 1994 and the first quarter of 1995 and decided to investigate. They arrived at audited Florida tax-paid fuel for these two quarters by totaling the gallons of fuel located in three bulk storage terminals the licensee maintained in the state and the gallons of fuel that the taxpayer's drivers had bought while traveling in Florida ("on-road purchases"). Cash receipts the vendors gave to the drivers and the summaries of two third-party reporting services evidenced the on-road purchases. The licensee had first started to use one of these services in December 1994. The taxpayer later discovered in preparing for its protest hearing that an error had occurred in implementing that new service. Specifically, that service's reports to the licensee did not include a jurisdiction code identifying the appropriate state in which a driver had made an on-road fuel purchase. When the taxpayer initially captured and transferred fuel data from the new service's reports to the licensee's internal tax reporting software, that software did not identify the states of purchase and, for reasons unknown, misallocated the purchases to Florida instead. However, neither the licensee nor the auditors were aware of these occurrences or the reason for them during the original audit.

The auditors found at that time that in the fourth quarter of 1994, reported Florida tax-paid gallons exceeded audited Florida tax-paid gallons by approximately 41.0 percent, while in the first quarter of 1995 reported Florida tax-paid gallons exceeded audited Florida tax-paid gallons by approximately 115.5 percent. To arrive at the audited Florida tax-paid fuel credits for these quarters, instead of using the reported Florida tax-paid gallons figures, the auditors multiplied the lower audited Florida tax-paid gallons figures by the applicable tax rates. This action initially had the effect of disallowing the taxpayer credits or refunds of Florida fuel tax in the mid-five-figure range for the fourth quarter of 1994 and in the low six-figure range for the first quarter of 1995, and generated approximately 34.5 percent of the original assessment. However, in preparing for its protest hearing the licensee discovered the previously described software malfunction and, through a combination of re-programming its computers and manual labor, identified the correct states in which the tax-paid fuel originally misallocated to Florida had been purchased. At the hearing the taxpayer submitted in evidence two "Reconciliation[s] of Over Reported Florida Tax-Paid Fuel," one each for the fourth quarter of 1994 and the first quarter of 1995. The reconciliations each identified the correct states (both IFTA and non-IFTA) where the licensee purchased tax-paid fuel and the respective number of gallons of such fuel that had been previously misallocated to Florida. The reconciliation for the fourth quarter of 1994 reallocated credit for fuel purchased during that quarter but misallocated to Florida among thirty-four states, seventeen of which were not, and another seventeen of which (including Florida) were, IFTA members. The reconciliation for the first quarter of 1995 reallocated credit for fuel purchased during that quarter but misallocated to Florida among thirty-six states, fifteen of which were not, and another twenty-one (21) of which (including Florida) were, IFTA members. The auditors reviewed and accepted this information, except for Wyoming in the fourth quarter of 1994, where the auditors used the gallons shown on the taxpayer's "Fuel and Mileage Recap by State from 10/01/94 thru 12/31/94." With this one exception, the auditors used the information on the reconciliations in the supplemental audit to adjust the licensee's respective credits for tax-paid fuel with the appropriate IFTA member jurisdictions.

The auditors also examined certain additional cash purchase tax-paid fuel invoices the taxpayer provided. They rejected invoices from vendors that were not on the licensee's "Fuel Receipt Vendor Listing," that had already been included in a third-party fuel purchase report or that were illegible but accepted invoices not falling into one or more of these categories. Lastly, the auditors adjusted the tax-paid gallons figures for Louisiana, Missouri and Wyoming for the 1995 test quarter to correct data entry errors they had made. The cumulative effect of the adjustments made to IFTA jurisdiction tax-paid gallons in the supplemental audit was to reduce the combined principal amount of tax in the original Notice of Proposed Assessment for the audit period by approximately13.7 percent. The overwhelming majority of this abatement, approximately 86.4 percent, fell in calendar year 1995, the year in which the auditors had disallowed the larger portion of the Florida tax-paid fuel credit.

4. The Negligence Penalty Assessment

The Department assessed a 10 percent negligence penalty against the taxpayer. The abatement in the supplemental audit of the part of the assessment relating to tax-paid gallons misallocated to Florida proportionately reduced the amount of the penalty. The Department will provide additional information in the Discussions of the issues for which such information is needed.

I. International Fuel Tax Agreement ("IFTA") – Imposition of Tax – Audited Total Miles – Audit Methodology Tax Procedure – Protests – Burden of Proof

DISCUSSION

The taxpayer argued in its original protest letter that the samples of its fleet that the field auditors audited were too small.

However, and contrary to the licensee's argument, the taxpayer's Fuel Manager objected to the auditors at least twice about what she characterized as the large sizes of these samples. The licensee's position on the question of the samples' sizes has therefore been inconsistent over the course of these administrative proceedings. Moreover, the taxpayer's representatives, once they respectively became involved, failed to support the taxpayer's present assertion with further evidence, argument or authority. These latter omissions are the first of several such failures to support the licensee's positions on various issues, so the Department believes it appropriate at this point to discuss the taxpayer's procedural obligations in this matter. Before doing so, however, the Department will discuss the parts of IFTA, the IFTA Procedures Manual (1993), the IFTA Audit Procedures Manual (1993) and the Indiana Code (1988 and 1993) that specified those obligations during the audit period.

As it read then, IC § 6-8.1-3-14(b) stated in relevant part that "if the provisions set forth in [the Base State Fuel Tax A]greement or other agreements [*e.g.,* IFTA] are different from provisions prescribed by an Indiana statute, then the agreement provisions prevail." *Id.* IFTA article XVII, § G states that "[a]dopted procedures shall become a part of this Agreement and shall be placed in writing in the IFTA Procedures Manual." *Id.* Article VI, § A.1 of the latter document in turn states that "[a]ll audits conducted by the member jurisdictions shall be in compliance with the requirements that are established in the Agreement and shall follow the procedures as outlined in the Audit Procedures Manual." *Id*. (*Cf.* IFTA article XIII, § R1330 (1998, rev. Aug. 2000), which states that "[a]udits conducted by member jurisdictions shall be in compliance with all requirements established in the Agreement, Procedures Manual, and Audit Manual." *Id.*)

IFTA Audit Manual article VII, § K.3 (1993) states that "[t]he findings of the base jurisdiction's audit as to the amount of fuel taxes due from any licensee shall be presumed to be the correct amount." *Id*. *Accord,* IC § 6-6-4.1-24(b) (1993) (stating that "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid.") IFTA Procedures Manual article VI, § A.3 states in relevant part that "[t]he assessment made by a base jurisdiction … shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive." BLACK'S LAW DICTIONARY (7th ed. 1999) defines the term "burden of proof" as a "party's duty to prove a disputed assertion or charge." *Id.* at 190. The burden of proof is two-fold, consisting of both the burden of persuasion and the burden of production. *Porter Mem'l Hosp. v. Malak*, 484 N.E.2d 54, 58 (Ind. Ct. App. 1985) (noting that "burden of proof" is not a precise term, as it can mean both the burdens of persuasion and production).

The terms "burden of production" and "burden of persuasion" have two distinct meanings. *See State v. Huffman*, 643 N.E.2d 899, 900 (Ind. 1994) (stating that there are "two senses" of the term "burden of proof," the burdens of persuasion and production). The burden of production, also referred to as the burden of going forward, is the party's (in tax protests the taxpayer's) "duty to introduce enough evidence on an issue to have the issue decided by the fact-finder." *Id*. In other words, a taxpayer must submit evidence sufficient to establish a prima facie case, i.e., evidence sufficient to establish a given fact and which if not contradicted will remain sufficient to establish that fact. *See Longmire v. Indiana Dep't of State Revenue*, 638 N.E.2d 894, 898 (Ind. Tax Ct. 1994); *Canal Square Ltd. Partnership v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801, 804 (Ind. Tax Ct. 1998). *Cf. Bullock v. Foley Bros. Dry Goods Corp.*, 802 S.W.2d 835, 839 (Tex. App. 1990) (observing, in challenge to state's sales and use tax audit, that comptroller's deficiency determination is prima facie correct and that taxpayer must disprove it with documentation).

In contrast to the burden of production component of the burden of proof, the burden of persuasion is the taxpayer's "duty to convince the fact-finder to view the facts in a way that favors that party. … —Also loosely termed *burden of proof*." BLACK'S LAW DICTIONARY 190 (7th ed. 1999) (emphasis in original.). Some cases have referenced this dual meaning. *See, e.g., Peabody Coal Co. v. Ralston*, 578 N.E.2d 751, 754 (Ind. Ct. App. 1991) (observing that in criminal cases, the "State carries the ultimate burden of proof, or burden of persuasion").

The present licensee protested that the sizes of the samples were too small. As the Department will discuss in detail under Issues II and III below, the taxpayer submitted as evidence the written opinion of an alleged auditing expert. However, that purported expert opinion does not discuss the subject of sample size. The only other evidence in the record, the assertions of the licensee's Fuel Manager that the samples were too large, contradicts the taxpayer's position. Nor has the licensee submitted any further argument in support of the question of sample size. Accordingly, the taxpayer has failed to sustain its burdens of production, persuasion and proof on this issue.

FINDING

The taxpayer's protest is denied as to this issue.

II. IFTA – Imposition of Tax – Audited IFTA Jurisdiction Miles – Audit Methodology
IFTA/Tax Administration – Alleged Audit Bias

DISCUSSION

A. THE LICENSEE HAS FAILED TO SUSTAIN ITS BURDEN OF PROOF THAT THE IFTA JURISDICTION MILES AUDIT METHODOLOGY WAS INACCURATE.

In the licensee's counsels' initial detailed statement of protest arguments, they asserted to the Audit Division that the auditors' practice of using the higher of audited or reported miles made the resulting audited IFTA jurisdiction miles calculations inaccurate.

Counsel have further contended, both in that statement and in later written arguments, that the audited IFTA jurisdiction miles figures calculated also were not based on the "best information available," as IC § 6-6-4.1-24(a) (1988 and Supp. 1992; 1993) requires. They submit that the best information available included audited mileages that fell below, as well as above, the corresponding reported mileages, and that the audits would have been more accurate if the auditors had used both kinds of audited miles. In support of this last proposition the taxpayer's other representative, a tax audit consulting firm, reviewed the driver's logs and prepared a so-called Revised Audit Analysis with three volumes of supporting work papers, one for each year of the audit period. The licensee submitted copies of this Analysis and these workpapers to the Audit Division in the early stages of this protest, which the auditors reviewed and found to be insufficient evidence to support changing their original findings concerning audited IFTA jurisdiction miles. The taxpayer also submitted a second set of the Analysis and workpapers in evidence at the protest hearing before the Legal Division.

After the hearing, at the hearing officer's request, the licensee's counsel also submitted written argument on three additional issues. Specifically, these issues were: 1) whether the Department's auditors' actions had violated generally accepted accounting principles or audit standards; 2) if so, which and how; and 3) what, if any, legal standards governed the methodology the auditors allegedly should have used. In support of their arguments on the first two issues, counsel submitted the written opinion of the alleged auditing expert referred to in the last paragraph of the Discussion of Issue I above. Copies of the allegedly controlling audit standards were attached to that opinion, which essentially reiterated the taxpayer's position as to audited IFTA jurisdiction miles. As to the last issue counsel reiterated its statutory "best information available" argument without being more specific as to what that term means or includes.

The Department views the licensee's argument as having two flaws. First, the "best information available" argument is an attempt by the taxpayer to shift the burden of proof from itself to the Department. IFTA Audit Manual article VII, § K.3 (1993) stated that "[t]he findings of the base jurisdiction's audit as to the amount of fuel taxes due from any licensee shall be presumed to be the correct amount." *Id.* Both IC § 6-6-4.1-24(a) and IFTA Procedures Manual article VI, § A.3 require motor carrier fuel tax auditors to act on the basis of the "best information available." Thus, if the Department's findings are presumptively correct, then they were also presumptively based on the best information available, and the Department therefore does not have the burden of proving this point.

Second, the licensee does not meet its own burden of proof merely by showing that the Department might not have used the best information available in proposing the assessment. IFTA Procedures Manual article VI, § A.3 states that "the [affirmative] burden [of proof] shall be on the licensee to establish by a fair preponderance of evidence that the assessment *is erroneous or excessive.*" *Id* (emphasis added). "[I]t was incumbent on the taxpayer 'to show in what manner and to what extent the [assessment] was wrong.' " *Ohio Fast Freight, Inc. v. Porterfield,* 278 N.E.2d 361, 363 (Ohio 1972) (quoting *Midwest Transfer Co. v. Porterfield,* 235 N.E.2d 511, 513 (Ohio 1968), *quoted and followed in National Freight, Inc. v. Limbach,* 1993 Ohio App. LEXIS 1666 at *2 (Ohio Ct. App. Mar. 25, 1993). *Accord, see* IC §§ 6-6-4.1-24(b) and –8.1-5-1(b) (each stating that "[t]he burden of proving that the proposed assessment *is wrong* rests with the person against whom the proposed assessment is made [emphasis added]."). In other words, a taxpayer protesting an audit assessment must prove either that the taxpayer owes no tax at all in addition to that which it had reported and paid previously, or less tax than was assessed, establishing the factual and legal reasons why such is the case.

Part of the auditors' rationale for using the greater of audited or reported miles was that it was impossible to drive between two given points along the "most practical route" in less than the minimum possible number of miles for that route. Thus, part of the licensee's burden of proof was to show the contrary, i.e. that its driver could travel the distance between two given points in less miles than the auditors had concluded was possible, and the specific road/s the driver used to achieve this result. However, the taxpayer's consulting firm completely failed to establish either of these facts in the workpapers supporting its Revised Audit Analysis. Each volume of workpapers begins with a "Miles by State Report" summarizing, by jurisdiction, the miles the consulting firm had concluded that each vehicle the auditors had included in the sample had traveled in that quarter. The Miles by State Report is followed by reports for each sample tractor entitled "Miles Summary for a Tractor Report" and "Routing Detail for a Tractor." The last report simply lists the points between which the unit in question traveled on a given day, but without listing any specific roads traveled or the respective distances between those points. Moreover, the routing detail reports suffer from exactly the same defect as the original driver's logs. Just as the auditors could not trace the driver's logs to the taxpayer's Fuel and Mileage Activity Report, the Department cannot trace the routing detail reports to the miles summary reports and in turn to the Miles by State Report. The Department cannot compare the mileages at which the auditors arrived to distances or roads that the consultant did not document, or determine if the licensee's consulting firm matched those undocumented mileages to the proper jurisdiction and reporting period. It was incumbent on the taxpayer to cite the Department to enough specific examples of lower mileages than those the auditors had found to make it probable, both statistically and evidentially, that the auditors' mileage calculation and matching methodology was wrong. The licensee has wholly failed to do so, and indeed it is unlikely that it could have done so. Distances between municipalities and other geographic facts, such as the existence and location of highways, "are not subject to reasonable dispute in that [they are] … capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." IND. R. EVID. 201(a)(2). It is well-settled evidence law in Indiana that such information is so reliable that a court could

judicially note it without proof. *Id. See also, e.g., Indiana Liberty Mut. Ins. Co. v. Strate,* 148 N.E. 425, 426 (Ind. App. 1925) (judicially noting the distance from Vincennes to Indianapolis as being approximately 130 miles) and *Adams v. Harrington,* 14 N.E. 603, 606 (Ind. 1887) (judicially noting the existence and location of a public highway). Such information is every bit as reliable in a tax case as in other disputes. *See Bethel Conservative Mennonite Church v. C.I.R.,* 746 F.2d 388, 392 (7th Cir. 1984) (judicially noting the history of the Mennonite church). The auditors' assumption about there being a minimum required mileage between two stops therefore was perfectly reasonable. It was also a method of audit reasonably calculated to reflect the taxpayer's operation and the taxes due from the taxpayer. *See, e.g., Micheli Contracting Corp. v. New York State Tax Comm'n*, 486 N.Y.S.2d 448, 450 (N.Y. App. Div. 1985) (citing *Ristorante Puglia, Ltd. v. Chu*, 478 N.Y.S.2d 91, 93 (N.Y. App. Div. 1984). *Accord, Underwood v. Fairbanks North Star Borough*, 674 P.2d 785, 788 (Alaska 1983) (quoting *W.T. Grant Co. v. Joseph*, 159 N.Y.S.2d 150, 155-56 (N.Y. App. Div. 1957)).

The other part of the licensee's burden was to prove that the auditors had been wrong to use reported rather than audited miles where the audited miles had exceeded the minimum possible between the two points in question. To do so, the taxpayer would have to prove that it had committed routing errors that had resulted in reporting more miles than had actually been traveled by the respective sample units and on the respective trips in question. The only real way for the licensee to do that was to produce drivers' logs that identified the precise roads on which the respective drivers had traveled, i.e. on which the drivers had filled out the Fuel and Mileage Section described in the discussion of the driver's log form in the Statement of Facts. As discussed there, the overwhelming majority of the drivers did not fill out the Fuel and Mileage Section. The graph grid that most drivers did fill out was inadequate for recording routing information because it was designed not for that purpose, but to document that the driver in question was complying with USDOT safety regulations concerning length of driving time and driver rest. *See generally* 49 C.F.R. § 395.3 (1993-2001) (specifying maximum allowable motor carrier driver driving and minimum rest times) and *id.* § 395.8 (requiring motor carriers to require drivers to maintain duty status records and specifying the contents of those records (including graph grids)). Thus the taxpayer, through its own failure to adequately supervise its drivers' record-keeping activities, failed to create the records that would have substantiated that a driver had traveled more than the minimum possible miles for the route in question but less miles than what the taxpayer had reported. Given the absence of adequate mileage records, the auditors were justified in declining to reduce minimum or higher audited IFTA jurisdiction mileages below the figures the licensee had reported for the same trips. The taxpayer had no or insufficient evidence to support its routing/reporting error theory.

B. THE LICENSEE HAS FAILED TO SUSTAIN ITS BURDEN OF PROOF THAT THE IFTA JURISDICTION MILES AUDIT METHODOLOGY WAS BIASED.

As noted above, the taxpayer's counsel initially asserted to the Audit Division that the auditors' use of the higher of audited or reported miles resulted in inaccurate audited IFTA jurisdiction miles calculations. However, after the protest was transferred to the Legal Division and the protest hearing was held, counsel further asserted to the hearings officer that the use of the higher of audited or reported miles was not only inaccurate, but also evidence that the auditors' methodology was biased. In support of this latter argument counsel quote IFTA Audit Manual article II, § E, which reads as follows:

> In all matters relating to this assignment, an *independence* in mental attitude is to be maintained by the auditor. *The independent auditor must be without bias with respect to the licensee* under audit, since otherwise he/she would lack the impartiality necessary for the dependability of his/her findings. However, independence does not imply the attitude of a prosecutor, but rather a *judicial impartiality that recognizes an obligation to fairness.*

Id (emphases added by counsel). This provision is an adaptation of the parallel Statement on Auditing Standards. CODIFICATION OF ACCOUNTING STANDARDS AND PROCEDURES, Statement on Auditing Standards No. 1, § 220.02 (Auditing Standards Bd., American Inst. of Certified Pub. Accountants 1972 and 2001). Both provisions speak of "a judicial impartiality," *id.*; however, the taxpayer has provided no explanation of what judicial (and, by extension, auditor) bias and prejudice consist. Accordingly, the Department has been obliged to research, and in ruling on this argument will refer, to legal authorities on judicial bias to the extent that the position and function of an auditor can be analogized to those of a judge.

BLACK'S LAW DICTIONARY (7th ed. 1999) defines "bias" as an inclination or prejudice, *id.* at 153, implying that it is a state of mind of an individual, specific person. The law of judicial bias supports this inference. Code of Judicial Conduct Canon 4E(1)(a) (1993) requires judges to recuse themselves if they have "a *personal* bias or prejudice," *id* (emphasis added). In *Liteky v. United States,* 114 S.Ct. 1147 (U.S. 1994), the leading modern opinion on judicial bias or prejudice, the United States Supreme Court observed that

> [a]s generally used, [bias and prejudice] are pejorative terms, describing *dispositions* that are *never* appropriate. It is common to speak of "personal bias" or "personal prejudice" without meaning the adjective to do anything except emphasize the idiosyncratic nature of bias and prejudice, and certainly without implying that there is some other "nonpersonal," benign category of those mental states. In a similar vein, one speaks of an individual's "personal preference," without implying that he could also have a "nonpersonal preference."

Id. at 1154 (first emphasis added; second emphasis in original). The Court went on to observe that

> [t]he words [bias and prejudice] connote a favorable or unfavorable *disposition or opinion* that is somehow *wrongful* or

inappropriate, either because it is undeserved, or because it rests upon knowledge that the subject ought not to possess (for example, a criminal juror who has been biased or prejudiced by receipt of inadmissible evidence concerning the defendant's prior criminal activities), or because it is excessive in degree (for example, a criminal juror who is so inflamed by properly admitted evidence of a defendant's prior criminal activities that he will vote guilty regardless of the facts).

Id. at 1155 (first emphasis added; remaining emphases in original). Bias and prejudice thus cannot exist without a person to experience and feel them. *Cf.* CODIFICATION OF ACCOUNTING STANDARDS AND PROCEDURES, Statement on Auditing Standards No. 1, § 220.04 (Auditing Standards Bd., American Inst. of Certified Pub. Accountants 1972 and 2001) (stating that "the possession of intrinsic [mental] independence by [an independent auditor] is a matter of *personal quality* ….") (emphasis added).

In contrast, a methodology is generalized, and detached from any specific problem, facts or data to which it might be applied, or to the state of mind of any person/s who created it or who might apply it. The relevant definition of "methodology" is that of a "*system* of principles, procedures, and practices applied to a particular branch of knowledge." WEBSTER'S II NEW RIVERSIDE UNIVERSITY DICTIONARY at 747, definition 1 (1988) (emphasis added). The relevant definition of "system" in turn is that of "[a] set of interrelated *ideas or principles*." *Id.* at 1175, definition 4 (emphasis added). Ideas and principles, in the senses that these definitions, and by extension the definition of "methodology," use them, are concepts of at least general, and usually universal, applicability. This is not to say that a methodology, such as generally accepted auditing standards or the rules of evidence, may not contain policy choices favoring or disfavoring particular kinds of results or classes of subjects. However, the fact that the creator/s of a methodology made such choices does not make it biased or prejudiced in the legal sense of those words. In creating that methodology, that person or persons had no specific object/s forming the subject of such a state of mind, but were concerned only with general principles. For that reason, the licensee's argument that the *methodology* used in the audits was biased is meaningless.

There is no evidence in this protest of the kind *Liteky* requires for judicial bias or prejudice that proves that the auditors were legally biased or prejudiced against the taxpayer. The licensee has not argued that the auditors' alleged bias or prejudice arose from a source other than the audit, and the evidence indicates that all of their contact with the taxpayer occurred during the audit (including the pre- and post-fieldwork phases). That being the case, to sustain its burden of proof the licensee would have had to produce pervasive evidence of auditor communications with the taxpayer or its employees or other agents, or with third persons (e.g., fuel suppliers) about the taxpayer, indicating "such a high degree of favoritism or antagonism as to make fair judgment impossible." *Liteky,* 114 S.Ct. at 1157. The taxpayer has not done so. The only evidence in the record of even mere auditor impatience with, let alone legal bias or prejudice toward, the licensee, was in the auditors' unilateral setting of a date for the first field visit. However, there is a clear trail of prior letters from the auditors to the taxpayer indicating that the latter was most reluctant to provide the auditors with the necessary records to enable them to complete their pre-fieldwork preparation, or to agree to a date for the first field visit.

The auditors' actions in computing audited IFTA jurisdiction miles were based only on their making an assumption about it taking a minimum number of miles to drive between two points of travel and on the inadequacy of the licensee's records. Both classes of action were completely consistent with the rules of evidence and with the placing of the burden of proof on the taxpayer by IFTA Procedures Manual article VI, § A.3. Neither evidenced any personal legal bias or prejudice against the taxpayer as the previous quotations from *Liteky* describe those words. As was also previously discussed, facts such as distances and highway routes and locations are so readily ascertainable and so far beyond reasonable dispute as to be entitled to judicial notice. If such is the case, it necessarily follows that a judge could not form a bias or prejudice about them. Since IFTA Audit Manual article II, § E requires auditors to exhibit "a judicial impartiality," *id.*, and a judge could not become biased or prejudiced about such facts, it logically follows that the present auditors could not have done so either. As was also previously noted, the auditors' disallowance of audited possible, but less-than-reported, miles was a straightforward matter of lack of substantiating records. The auditors were under no duty to simply accept such alleged mileages at face value. " 'Impartiality is not gullibility.' " *Liteky,* 114 S.Ct. at 1155, quoting *In re J. P. Linahan, Inc.,* 138 F.2d 650, 654 (2d Cir. 1943) (Frank, J.). However, it is to be noted that, despite the licensee's inadequate mileage records, the auditors did not project error factors for the third quarter of 1994 for Idaho, Utah or Washington, treating the audited miles for those jurisdictions as isolated errors that occurred only in that quarter. This adjustment, combined with those the auditors made in the taxpayer's favor on tax-paid fuel credit (discussed under Issues IV and V below), is evidence that contradicts its claim of auditor bias.

The Department sees no reason, on the basis of the evidence before it, to abate or reduce this assessment on the ground of auditor bias or prejudice. Given the licensee's failure to offer any evidence of the kind required to prove a charge of auditor bias or prejudice, the taxpayer has not made a good faith argument on the merits concerning this subject. Its argument thus not only lacks merit, but it also is frivolous, unreasonable and groundless. *See Kahn v. Cundiff,* 533 N.E.2d 164, 170-71 (Ind. Ct. App.) (defining these terms and discussing them as providing a basis for an award of statutory attorney's fees), *aff'd and adopted* 543 N.E.2d 627, 629 (Ind. 1989).

FINDING

The licensee's protest is denied as to this issue.

III. IFTA – Credits Against Tax – Tax-Paid Fuel Credit – Audit Methodology

DISCUSSION

The taxpayer contends that the auditors used inconsistent methodology in conducting a census of the licensee's tax-paid fuel

receipts for its entire fleet during the sample quarters, while using a sample audit approach to audit miles. The taxpayer contends that the field auditors should have used a sampling approach for tax-paid fuel as well, citing the burden to the licensee of producing all the tax-paid fuel receipts necessary to comply with a census audit.

As noted above, IFTA Procedures Manual article VI, § A.3 states that "the [affirmative] burden [of proof] shall be on the licensee to establish by a fair preponderance of evidence that the assessment *is erroneous or excessive.*" *Id* (emphasis added). IFTA article III, § C states that "[a]ll motor fuel acquired that is normally subject to consumption tax is taxable unless proof to the contrary is provided by the licensee." *Id.* In the tax-paid fuel credit context, these provisions imply that to meet its burden of proof, an IFTA licensee must produce documentation that it had already paid tax on the fuel the auditor/s assessed. IFTA has quite specific requirements concerning taxpayers obtaining and maintaining such documentation. IFTA article VII, § B states that

> [i]n order for the licensee to obtain credit for tax-paid retail purchases, a receipt or a credit card receipt must be retained by the licensee showing evidence of such purchases and tax having been paid by the licensee directly to the applicable jurisdiction or at the pump. No member jurisdiction shall require evidence of such purchases beyond what is specified in the IFTA Procedures Manual.

Id. IFTA Procedures Manual article II, § A states that "[i]n order for the licensee to obtain credit for tax paid purchases, a receipt or invoice, a credit card receipt or automated vendor generated invoice or transaction listing must be retained by the licensee showing evidence of such purchases and tax having been paid." IFTA article VII, § C further states that "[i]n order to obtain credit for tax-paid retail purchases, the receipts must identify the motor vehicle into which the motor fuel was placed." IFTA Audit Manual article V, § B.2.a states that

> [t]ax paid purchases must be supported by a receipt, invlice [sic; should read "invoice"], a credit card receipt or automated vendor-generated invoice or transaction listing. ….
>
> O.T.R. [over-the-road] fuel receipts should identify the vehicle by the plate or unit number, since only vehicles identified with the licensee's operation may be reported for mileage or fuel consumption.

Id. Concerning tax-paid bulk fuel, IFTA article VII, § D states in pertinent part that "motor fuels placed into the fuel tank of a qualified motor vehicle from a licensee's own bulk storage, and upon which tax has been paid to the jurisdiction where the bulk fuel is located, shall be considered as tax-paid purchases. The licensee's records must identify the quantity of fuel taken from the licensee's own bulk storage and placed in its qualified motor vehicles." *Id.* The Department interprets this last provision as necessarily implying that the taxpayer in question must have received, and must maintain, a record of tax having been paid on the bulk-purchased fuel to the applicable jurisdiction, either directly or at the pump. *See* IFTA Audit Manual article V, § B.2 (stating that "[t]he licensee must maintain *complete* records, supported by fuel receipts, of all fuel purchases [emphasis added]….").

There is thus no question that an IFTA licensee contending that it already paid tax on part or all the fuel it consumed must produce records documenting that fact to sustain its burden of proof that an assessment of tax on that fuel is wrong. Ordinarily IFTA auditors will use the sample method to review that documentation. The above-quoted provisions from IFTA and its supporting manuals could be read as implying that a full census approach for both sample and non-sample quarters is required, since proof of payment of tax is transaction-specific. An IFTA audit provision indicates the contrary, however. IFTA Audit Manual Article VII, § A states that "*[u]nless the specific situation dictates,* all audits will be conducted on a sampling basis." (Emphasis added.) The provision draws no distinction between or among any aspects of a licensee's operations related to fuel consumption. Sample audits therefore are the norm as much for tax-paid fuel as for any other such aspect.

However, the specific situation in this audit dictated that the auditors conduct a full census audit, rather than a sample audit, of tax-paid fuel for the sample quarters. The taxpayer had organized its tax-paid fuel records by jurisdiction rather than tractor, and the auditors had only a limited amount of time to conduct their first field visit. The licensee does not dispute either of these facts. Reorganizing the records by tractor to conduct a sample audit of tax-paid fuel would have consumed too much of the auditors' restricted field time. Their decision to work with the records as they found them and conduct a full census audit of tax-paid fuel in the sample quarters therefore was reasonable. Any inconsistency in audit methodology or hardship to the taxpayer in producing the records was the result of its own choices in organizing its records, over which the Department had no control.

Moreover, standing alone, neither the choice of audit methodology nor any resulting requirement that the licensee produce documents, however burdensome to it, is a protestable issue. The taxpayer must prove not that the methodology used, or any alleged inconsistency in its use, caused the licensee hardship in producing the relevant records, but that the resulting assessment *is wrong*, i.e. that the choice of methodology resulted in legal prejudice to the taxpayer. Thus, the only real questions in a protest in which tax-paid fuel audit methodology is an issue are whether the choice or application of methodology resulted in an erroneous denial of credit and assessment of tax. As to choice of audit methodology the Department would emphasize that it is a logical impossibility for the census method, if chosen and correctly applied, to result in an erroneous assessment of tax. A census audit by necessary implication is the most accurate methodology possible since, as IC § 6-6-4.1-24(a) requires, it is based on the "best information available," *id.,* i.e. all of the activity in question. It therefore follows that the only way to prove that a census audit of tax-paid fuel resulted in an erroneous denial of credit and assessment of tax is through proving that the application of the methodology was incorrect. Such proof would include, for example, the auditors having overlooked valid tax-paid fuel receipts or having committed data entry errors concerning any receipts that they accepted as valid.

The present licensee has not sustained its burden of proof that the choice of methodology resulted in an erroneous denial of credit and assessment of tax, and given the auditors' choice of the census method it could not have done so for the reasons set out above. The taxpayer has not submitted any evidence that the auditors omitted any tax-paid fuel receipts. (The licensee itself had initially overlooked certain receipts, as discussed under Issue V below, but it provided them to the auditors when it discovered the receipts during the supplemental audit.) The taxpayer also has not provided any proof that the auditors committed any data entry errors concerning any of the sample quarters except for the three errors found concerning the fourth quarter of 1995, also discussed under Issue V below. Even as to the 1995 test quarter, the licensee has not offered any evidence that those errors were anything other than isolated or that they had a material effect adverse to the taxpayer on the resulting tax-paid fuel credit error factor. Nor does the licensee offer any evidence that the auditors otherwise erred in applying (as distinguished from choosing) the census method. The taxpayer therefore cannot make a good faith argument on the merits concerning tax-paid fuel audit methodology. Its argument thus not only lacks merit, but it also is frivolous, unreasonable and groundless. *See Kahn v. Cundiff,* 533 N.E.2d 164, 170-71 (Ind. Ct. App.) (defining these terms and discussing them as providing a basis for an award of statutory attorney's fees), *aff'd and adopted* 543 N.E.2d 627, 629 (Ind. 1989).

FINDING

The licensee's protest is denied as to this issue.

IV. IFTA – Credits Against Tax – (4th Quarter 1994 and 1st Quarter 1995 only) – Disallowed Excess Tax-Paid Fuel Credit – Reallocation from Florida to Correct Jurisdictions

DISCUSSION

The taxpayer argues that the auditors should reallocate certain tax-paid fuel receipts from Florida to other states, including states that were IFTA members during the quarter in question. As discussed in detail in the Statement of Facts, the original allocation of the gallons to Florida had been the result of a malfunction by the licensee's reporting software. The taxpayer re-programmed its computer, conducted a manual review of its tax-paid fuel records and submitted evidence at the protest hearing of the correct states to which that fuel should have been allocated. The auditors conducted a supplemental audit in which they adopted this evidence except for Wyoming in the fourth quarter of 1994, for which they adopted the gallons shown on the licensee's Fuel and Mileage Recap by State for that quarter.

FINDING

The taxpayer's protest is sustained in part and denied in part as to this issue. The licensee's protest of this issue is sustained as to all jurisdictions and years except for Wyoming in the fourth quarter of 1994, as to which the taxpayer's protest of this issue is denied.

V. IFTA – Credits Against Tax (All Test Quarters) – Disallowed Excess Tax-Paid Fuel Credit – Census Population Adjustments – After-Discovered On-Road Fuel Purchase Receipts and Incorrect Auditor Data Entries

DISCUSSION

As described in the Statement of Facts, during the supplemental audit the licensee discovered certain additional on-road cash purchase tax-paid fuel receipts, all of which it contends should be added to the census population. The taxpayer provided them to the auditors, who reviewed them. They disallowed receipts from vendors that were not on the licensee's "Fuel Receipt Vendor Listing," that had already been included in a third-party fuel purchase report or that were illegible. The licensee has failed to sustain its burden of proof as to those items. However, the auditors also accepted and added to the census population invoices not falling into one or more of these categories. As to these latter invoices the taxpayer has sustained its burden of proof.

The licensee also argued that the auditors made data entry errors concerning tax-paid fuel for Louisiana, Missouri and Wyoming for the 1995 test quarter. The auditors have acknowledged this fact and have corrected these figures in the supplemental audit.

FINDING

The taxpayer's protest is sustained in part and denied in part as to this issue. The licensee's protest of this issue is denied to the extent that the additional receipts it submitted were issued by vendors not on the licensee's "Fuel Receipt Vendor Listing," that had already been included in a third-party fuel purchase report or that were illegible. The protest of this issue is sustained to the extent that the receipts the taxpayer provided do not fall into one or more of the foregoing categories. The licensee's protest of this issue is also sustained as to the auditors' acknowledged data entry errors of tax-paid fuel for Louisiana, Missouri and Wyoming for the 1995 test quarter.

VI. IFTA/Tax Administration – Negligence Penalty

DISCUSSION

The taxpayer submits that the Department should waive the negligence penalty it assessed against the licensee. It argues that its actions do not constitute "willful neglect" as IC § 6-8.1-10-2.1(d) (1988 and Supp. 1992; 1993) uses that phrase. However, the taxpayer has not cited any other legal authority for the proposition that its record-keeping deficiencies do not constitute "willful neglect." In factual support of its argument for waiver, the licensee does point out that the field audit was its first IFTA audit and that the taxpayer was then undergoing a significant change in its record-keeping personnel. The licensee also notes that it later

improved its fuel tax reporting system by installing satellite communication equipment in its fleet tractors. Again, however, the taxpayer has cited no authority to support the propositions that any of these grounds constitute "reasonable cause" to abate the penalty. The licensee has therefore failed to sustain its burdens of persuasion and proof that the penalty should be waived.

FINDING

The taxpayer's protest is denied as to this issue.

DEPARTMENT OF STATE REVENUE

28980694.LOF

LETTER OF FINDINGS NUMBER: 98-0694
Controlled Substance Excise Tax
For Tax Period 1992

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Controlled Substance Excise Tax – Imposition

Authority: IC 6-7-3-5; IC 6-7-3-6; IC 6-8.1-5-1

Taxpayer protests the assessment of the Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of Marijuana. The Indiana Department of Revenue issued an assessment of the Controlled Substance Excise Tax on December 9, 1992. Taxpayer protested the assessment. An administrative hearing was held via telephone on June 28, 2002. Additional facts will be presented as necessary.

I. Controlled Substance Excise Tax – Imposition

DISCUSSION

Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

(1) delivered,
(2) possessed, or
(3) manufactured;

in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Pursuant to Indiana Code Section 6-7-3-6:

"The amount of the controlled substance is determined by:

(1) the weight of the controlled substance..."

Taxpayer was arrested and the controlled substance excise tax was assessed based on 2,183.40 grams of marijuana.

Pursuant to Indiana Code Section 6-8.1-5-1(b), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

At hearing, taxpayer's representative stated that taxpayer did not protest the assessment, but did not have sufficient funds to pay the assessment. Taxpayer did not offer any evidence that the assessment was invalid. As such, the taxpayer failed to meet the burden imposed by IC 6-8.1-5-1(b). The purpose of a protest is to determine the validity of the assessment, not to determine whether or not a taxpayer is able to pay the assessment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02980717.LOF

LETTER OF FINDINGS NUMBER: 98-0717
Adjusted Gross Income Tax
For the Years 1990 through 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Classification of Taxpayer's Partnership Income as Allocable – Adjusted Gross Income Tax

Authority: IC 6-3-2-2(p); Allied-Signal Inc. v. Director, Div. of Taxation, 504 U.S. 768 (1992); Container corp. v. Franchise Tax Board, 463 U.S. 159 (1983); F.W. Woolworth v. Taxation and Revenue Dep't. of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n., 458 U.S. 307 (1982); Exxon Corp. v. Dep't. of Revenue of Wisconsin, 447 U.S. 207 (1982); Mobil Oil Corp. v. Commissioner of Taxes of Vermont, 445 U.S. 425 (1980); 45 IAC 3.1-1-153(b); 45 IAC 3.1-1-153(c)

Taxpayer argues that the audit erred when it determined that taxpayer's partnership income should be wholly attributed to the partnership's home state location and that, as a result, taxpayer did not qualify for unitary treatment in calculating taxpayer's adjusted gross income.

II. Abatement of the Ten Percent Negligence Penalty

Authority: IC 6-8.1-5-1(b); IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer requests the Department to exercise its discretionary authority to abate the ten percent negligence penalty. Taxpayer maintains that its failure to pay the full amount of its taxes was due to reasonable cause and not to willful neglect.

STATEMENT OF FACTS

Taxpayer manufactures chemicals which are used by its customers to produce products such as upholstery foam, industrial solvents, and resins for automobile parts. The taxpayer has no office or production facilities in the state. Rather, the taxpayer maintains rented storage facilities within Indiana from which it distributes various of its chemical products.

An audit of taxpayer's records resulted in an adjustment deducting partnership losses from the taxpayer's adjusted gross income. The taxpayer disagreed and submitted a protest to the Department of Revenue. The taxpayer declined the opportunity to conduct an administrative hearing on the protested tax issue. Instead, this Letter of Findings was prepared on the basis of information contained within the audit file and from supplementary information prepared by the taxpayer.

DISCUSSION

Taxpayer, along with two other entities, owns an out-of-state holding company partnership. Taxpayer owns 50 percent of the holding company partnership. The holding company partnership has no employees and is simply in the business of constructing, equipping, owning, and leasing an out-of-state chemical plant. By means of the parties' agreement, taxpayer actually operates the chemical plant – producing chemical products, conducting research, arranging sales – as if the plant were the taxpayer's own.

Pursuant to the parties' operating agreement, taxpayer makes lease payments to the holding company partnership. All of the various products produced at the chemical plant are then "distributed" to the three parties which own the holding company partnership.

The audit found that the lease agreement was made at "arm's-length" – meaning that the lease payments made to the holding company partnership fairly reflected the value taxpayer received for the right to possess and operate the chemical plant. The lease payments were not simply a "token" payment creating an underlying or secondary fiduciary relationship between taxpayer and the holding company partnership.

The taxpayer argues that it has a unitary relationship with the holding company partnership. Whether or not there is a unitary relationship between taxpayer and the holding company is significant because of the holding company partnership's "income" during the years at issue. Although the holding company partnership received actual income in the form of lease payments, it also was able to take advantage of the depreciation attributable to the chemical plant and the equipment contained within the plant. The holding company partnership's losses during the audit period were attributable to the federal depreciation of the plant assets being greater than the book depreciation.

The audit determined that there was no unitary relationship and that the holding company partnership's "income" was entirely attributable to the partnership's home state under 45 IAC 3.1-1-153(c). Taxpayer maintains that there is a unitary relationship and that, as a result, the partnership's "income" should be apportioned. By this means, taxpayer wishes to take advantage of the partnership's losses in arriving at the taxpayer's Indiana adjusted gross income.

45 IAC 3.1-1-153(b) determines whether or not a unitary relationship exists between a taxpayer and its corporate partner. In part, the regulation states that if a "corporate partner's activities and partnership's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by a three (3) factor formula...." Taxpayer must demonstrate that the relationship between itself and the holding company partnership exhibits the characteristics of a unitary relationship.

The Supreme Court has developed a three-part test to determine the existence of a unitary relationship; common ownership, common management, and common use or operation. Allied-Signal Inc. v. Director, Div. of Taxation, 504 U.S. 768 (1992); F.W. Woolworth v. Taxation and Revenue Dep't. of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n., 458 U.S. 307 (1982); Exxon Corp. v. Dep't. of Revenue of Wisconsin, 447 U.S. 207 (1982); Mobil Oil Corp. v. Commissioner of Taxes of Vermont, 445 U.S. 425 (1980).

45 IAC 3.1-1-153(b) gives no indication of the precise degree of ownership required to demonstrate common ownership. However, the record indicates that taxpayer owns 50 percent of the holding company partnership. Therefore, the evidence establishes a significant amount of common ownership between the parties.

The second relevant criteria is that of common management. Common management is demonstrated when the parent company provides a management role that is "grounded in [the parent company's] own operational expertise and its overall operational strategy." Container corp. v. Franchise Tax Board, 463 U.S. 159, 180, n.19 (1983). Taxpayer argues that – in practical effect – it exercises almost total managerial control over the chemical plant and over all the activities conducted within the chemical plant. However, the issue is whether or not taxpayer exercises managerial control over the holding company partnership. Taxpayer is in the business of manufacturing and selling chemical products. The holding company partnership is in the business of owning and leasing a chemical plant. There is little or no indication that taxpayer exercises managerial control over the holding company partnership and its specialized leasing operation. There is nothing to indicate what decisions were made by the holding company partnership or what degree of involvement taxpayer – as a chemical manufacturer – has in the day-to-day operation of the holding company partnership's leasing business.

The third relevant criteria is that of common operation or use. There is no question that taxpayer operates and uses the chemical plant. However, there is little or no substantive information regarding the degree to which taxpayer either operates or uses the holding company partnership.

Regardless of the relevance of the three criteria and to what degree taxpayer can demonstrates its compliance with those criteria, taxpayer is entitled to a consideration of whether requiring taxpayer to employ the standard apportionment formula accurately portrays taxpayer's Indiana adjusted gross income or whether, by doing so, taxpayer's Indiana income is distorted. IC 6-3-2-2(p). Taxpayer makes much of the audit's determination that the lease agreement between itself and the holding company partnership was at "arm's length" arguing that it could not "find any legal support that requires a non arms length transaction to qualify this business as unitary." Taxpayer is correct in maintaining that there is no specific statutory or regulatory language requiring that a non-arm's length transaction be demonstrated in order to qualify for unitary treatment. However, a non-arm's length transaction – one in which the lease transaction is secured by a "token" payment – gives evidence that unitary treatment of the parties is necessary to avoid distorting taxpayer's Indiana adjusted gross income. If the taxpayer was merely paying $1 to the holding company partnership for the privilege of using the chemical plant, then it would be necessary to treat the holding company partnership and taxpayer as a single entity in arriving at a rational calculation of the taxpayer's income. The information indicates that taxpayer is paying fair market value to the holding company partnership.

Other than the fact that taxpayer owns a significant portion of the holding company partnership, there is no reason that taxpayer and the holding company partnership should not be treated as entirely distinct entities for purposes of determining taxpayer's Indiana adjusted gross income. There is little or nothing to indicate that, in the absence of unitary treatment, taxpayer's Indiana adjusted gross income would be distorted by simply ignoring the holding company partnership and treating taxpayer as an entirely independent entity.

FINDING

Taxpayer's protest is respectfully denied.

II. Abatement of the Ten Percent Negligence Penalty

Taxpayer requests that the department exercise its discretion to abate the ten percent negligence penalty imposed at the time of the original audit.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Under IC 6-8.1-5-1(b), "The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." The assessment – including the negligence penalty – is presumptively valid. The taxpayer has done nothing more than recite the regulatory language to the effect that is failure to pay the tax was due "to reasonable cause and not due to willful neglect."

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

04990047.LOF

LETTER OF FINDINGS NUMBER: 99-0047
Sales Tax
Calendar Years 1994 and 1995, and, Fiscal Year Ending March 31, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on a sales tax assessment resulting from a Department audit conducted for the calendar years 1994 and 1995, plus, the fiscal year ending March 31, 1996.

The taxpayer is a pager company. The company rents and sells a variety of pagers. The taxpayer also sells airtime to customers. In addition to the basic services of pager rental and airtime, the taxpayer also offers maintenance contracts and voice mail service. The taxpayer's domicile is located out of state. The taxpayer has several locations in Indiana.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer argues the penalty should be waived as the error was the result of an immaterial error which consisted of collecting and remitting sales tax from one central location as opposed to collecting and remitting sales tax from each sales location as deemed by the Indiana sales tax regulations.

The Department points out the tax assessed for the separate locations was basically "washed" with the refund from the central location. The tax assessed in the audit basically resulted from the sale of air time and pager rental, plus, the use tax assessed on capital assets. These issues were issues in the previous audit, and, the taxpayer had not implemented a self-assessing use tax accrual system from the time of the previous audit.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The Department finds the taxpayer did not act with reasonable care in that the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.

DEPARTMENT OF STATE REVENUE

04990053P.LOF

LETTER OF FINDINGS NUMBER: 99-0053P
Sales Tax
Fiscal Part Year Ending December 31, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on a sales tax assessment resulting from a Department audit conducted for the fiscal part year ending December 31, 1996.

The taxpayer is a pager company. The company rents and sells a variety of pagers. The taxpayer also sells airtime to customers. In addition to the basic services of pager rental and airtime, the taxpayer also offers maintenance contracts and voice mail service. The taxpayer's domicile is located out of state. The taxpayer has several locations in Indiana.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer argues the penalty should be waived as the error was the result of an immaterial error which consisted of collecting and remitting sales tax from one central location as opposed to collecting and remitting sales tax from each sales location as deemed by the Indiana sales tax regulations.

The Department points out the tax assessed for the separate locations was basically "washed" with the refund from the central location. The tax assessed in the audit basically resulted from the sale of air time and pager rental, plus, the use tax assessed on capital assets. These issues were issues in the previous audit, and, the taxpayer had not implemented a self-assessing use tax accrual system from the time of the previous audit.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The Department finds the taxpayer did not act with reasonable care in that the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.

DEPARTMENT OF STATE REVENUE

02990217.LOF

LETTER OF FINDINGS NUMBER: 99-0217
Adjusted Gross Income Tax
For the Tax Periods: 1993, 1994, 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Business/Nonbusiness Income

Authority: 45 IAC 3.1-1-153, *Mobil Oil Corp. v. Com'r of Taxes of Vermont*, 445 U.S. 425, 437 (1980), *Allied Signal, Inc. v. Director Division of Taxation*, 112 S. Ct. 2251 (1992), *ASARCO, Inc. v. Idaho State Tax Com'n*, 458 U.S. 307 (1982), *Container Corp. of America v. Franchise Tax Board*, 463 U.S. 159, 179 (1983)

The Taxpayer protests the assessment of gross income tax on lease and interest income.

STATEMENT OF FACTS

Taxpayer markets and supplies a variety of products including automotive sound equipment, cellular telephones, automotive accessories and consumer electronics. Taxpayer and Company C, who is a seller of Taxpayer's auto accessories, both have a 49.5% limited partner interest in Company A, which is a distributor to specialized markets for recreational vehicles, van conversions, television and other automotive sound, security and accessory products. Taxpayer and Company C each maintain a 50% general partnership in Company B which has a 1% general partnership interest in Company A. More facts will be supplied as necessary.

I. Adjusted Gross Income Tax

DISCUSSION

Taxpayer claims a unitary relationship with Company A. During the audit, the auditor determined that Taxpayer and Company A were not in fact engaged in a unitary business and therefore assessed adjusted gross income tax on the income derived from the non-unitary partnership pursuant to 45 IAC 3.1-1-153(c). Taxpayer protests these assessments.

"[T]he linchpin of apportionability in the field of state income taxation is the unitary-business principle." *Mobil Oil Corp. v. Com'r of Taxes of Vermont*, 445 U.S. 425, 437 (1980). A state may tax an apportioned amount of a corporation's multistate business if the business is unitary. *Allied Signal, Inc. v. Director Division of Taxation*, 112 S. Ct. 2251 (1992); *ASARCO, Inc. v. Idaho State Tax Com'n*, 458 U.S. 307 (1982). A state may not tax a nondomiciliary corporation's multistate income if the income is derived from an unrelated business income. *Mobil*, 445 U.S. at 436 (1980).

The Supreme Court has applied a three-part analysis when determining whether the intrastate and out-of-state activities form a part of a single unitary business. The factors include: functional integration, economies of scale, and centralization of management. *Allied Signal* at 2264. In *Container Corp. of America v. Franchise Tax Board*, 463 U.S. 159, 179 (1983), the Supreme Court found that these elements may be shown by transactions not undertaken at arms length, a management role by the parent which is provided in the owner's operational expertise and strategy, and the fact that the corporations are engaged in the same line of business.

The audit report points out that there is not a substantial flow of goods and services between the two companies – *i.e.*, between Taxpayer and the partnership. The report also stated that internal services such as financing, accounting and legal services were insufficient to create a unitary relationship. The Department notes, however, that "[t]he prerequisite to a constitutionally acceptable finding of unitary business is a flow of value, not a flow of goods." *Id.* at 178.

The audit report also notes that there is no centralization of management in that the Taxpayer has 49.5%, non-controlling ownership percentage in Company A. Nevertheless, Taxpayer and Company C wholly own Company B who has the 1% general partnership interest in Company A. The remaining 99% of Company A is owned by Taxpayer and Company C equally as a limited partnership interest. Taxpayer and Company C each provide two officers to Company B. Consequently, both Taxpayer and Company C equally split control of Company A.

When Taxpayer and Company C created Company A, Taxpayer contributed cash, the rights to its trade name, customers, rights to distribute its products and business experience. Company C contributed most of the operations. Taxpayer aides the partnership by guaranteeing the partnership line of credit, by including Company A on its insurance policies, and by handling the partnership customs audit. Taxpayer provides training and gives advice on marketing strategies. Additionally, the officers and employees of Taxpayer and Company A meet to discuss business strategy.

Taxpayer and Company A are in the same line of business. The two companies share a common trade name. From supply and marketing to distribution and sales, Taxpayer and Company A are functionally integrated. Taxpayer markets and supplies a variety of products including automotive sound equipment, cellular telephones, automotive accessories, and consumer electronics. Company A (the partnership) distributes these products through a variety of specialized markets. Taxpayer makes sales to the partnership and the partnership orders all of its goods through Taxpayer's buying office. Consequently, a substantial flow of value exists between Taxpayer and the partnership. From all these facts, the Department finds that Taxpayer has adequately demonstrated the existence of the unitary prerequisites; that is, centralized management, economies of scale, and functional integration.

Taxpayer and Company A engaged in a unitary business. As such, the computation of Taxpayer'' business income attributable to Indiana should follow the prescriptions of 45 IAC 3.1-1-153(b). It states:

> If the corporate partner's activities and the partnership's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the corporate partner and its share of the partnership's factors for any partnership year ending within or with the corporate partner's income year….

Based on all the facts provided, Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

04990366.LOF

LETTER OF FINDINGS NUMBER: 99-0366
Sales/Use Tax
For the Tax Periods: 1995, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax – Rental of Tangible Personal Property

Authority: IC 6-2.5-4-10, IC 6-2.5-3-2, IC 6-2.5-3-4

The Taxpayer protests the Department's assessment of use tax for rental of a Logic Trunk Radio (LTR).

II. Use Tax – Rental of Tangible Personal Property

Authority: IC 6-2.5-3-2, 45 IAC 2.2-3-8

The Taxpayer protests the Department's assessment of use tax on stone laid at tower site.

III. Use Tax – Office Supplies

Authority: IC 6-2.5-3-2, IC 6-8.1-5-1, IC 6-8.1-5-4

The Taxpayer protests the Department's assessment of use tax on office supplies.

STATEMENT OF FACTS

Taxpayer was audited for the calendar years of 1995 and 1996 for sales and use tax. Taxpayer is primarily a retailer and provides service for two-way radio communications equipment. Taxpayer sells and leases two-way radio equipment and related accessories. Taxpayer also became a registered Indiana motor vehicle dealer in 1994. Taxpayer protests the assessment of use tax on a Logic Trunk Radio, capital purchases and office supplies. More facts supplied as necessary.

I. Use Tax – Rental of Tangible Personal Property

DISCUSSION

Audit assessed use tax on the lease of tangible personal property. Taxpayer leases a Logic Trunk Radio (LTR) from a related company and the related company failed to collect sales tax. IC 6-2.5-4-10 states that: "[a] person, other than a public utility, is a retail merchant making a retail transaction when he rents or leases tangible personal property." Also, "[a]n excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." IC 6-2.5-3-2. The transaction is exempt from use tax if the property was acquired in a retail transaction in Indiana and the state gross retail tax was paid on the transaction. IC 6-2.5-3-4.

Here, Taxpayer argues that they are not renting the equipment. They state that they are making periodic commission payments based on their usage of the equipment (*i.e.* airwaves). A commission is defined as "[t]he recompense, compensation or reward of an agent, salesman, executor, trustee, receiver, factor, broker, or bailee, when the same is calculated as a percentage on the amount of transactions or on the profit to the principal. A fee paid to an agent or employee for transacting a piece of business or performing a service." Black's Law Dictionary 1136 (6th ed. 1997). Taxpayer has not demonstrated that the transaction involves any type of service for the owner. Rather, Taxpayer uses the equipment in furtherance of its own business operations. Taxpayer is unable to transmit through the airwaves without the tangible personal property (LTR). Consequently, Taxpayer's protest is denied.

FINDING

The Taxpayer's protest is denied.

II. Use Tax – Capital Asset Purchases

Taxpayer protests the assessment of use tax on stone that was laid at a tower site as well as concrete and parts used for the tower. The auditor assessed the stone after determining that no sales or use tax was paid on the purchase. "[U]se tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." IC 6-2.5-3-2. Also, 45 IAC 2.2-3-8 states:

(a) In general, all sales of tangible personal property are taxable, and all sales of real property are not taxable. The conversion of tangible personal property into realty does not relieve the taxpayer from a liability for any owning and unpaid state gross retail tax or use tax with respect to such tangible personal property.

Consequently, the items in question are subject to use tax.

FINDING

The Taxpayer's protest is denied.

III. Use Tax – Office Supplies

DISCUSSION

Taxpayer was assessed use tax on the purchases of office supplies, books, publications, subscription, computer diskettes and software, and general repair items pursuant to IC 6-2.5-3-2.

Taxpayer argues that the items were purchases locally and sales tax was paid. However, the audit report states that these items were purchased from outside Indiana and subsequently consumed and used in Indiana. Pursuant to IC 6-8.1-5-1(b): "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposes assessment is wrong rests with the person against whom the proposes assessment is made."

Taxpayer asserts that the records pertaining the purchases were destroyed in a fire at one of Taxpayer's other businesses in November 1999. A subsequent audit of Taxpayer verified the fire.

IC 6-8.1-5-4 states

(a) Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Yet, Taxpayer's argument is without merit for the years in question because the Audit Progress Report notes that the audit was completed on April 7, 1999, before the fire.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04990381.LOF

LETTER OF FINDINGS NUMBER: 99-0381
Sales and Use Taxes
For Calendar Years 1995, 1996, and 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Sales/Use Tax – JD955 Tractor and Mower Attachment

Authority: IC 6-2.5-5-2; IC 6-2.5-5-3; *Indiana Department of State Revenue v. Cave Stone, Inc.* 457 N.E.2d 520 (Ind. 1983); 45 IAC 2.2-5-6; *Indiana Department of State Revenue v. American Dairy of Evansville, Inc.* 338 N.E.2d 698 (Ind. App. 1975); IC 6-2.5-5-1; 45 IAC 2.2-5-13

Taxpayer protests the tax on its mower used to mow between trees.

STATEMENT OF FACTS

Taxpayer is a nursery and landscape architectural designer. Taxpayer raises trees and shrubs from saplings and seed and purchases plants and blooming flowers that are used in a landscape setting. In addition, taxpayer sells black dirt, wood chips, installs landscape timbers, does tile repair, tree trimming, fence row cleaning, and removes debris. At audit it was determined that the taxpayer failed to maintain most of its records. A projection method was utilized for the sales and expenses.

The item at issue is a JD 955 tractor upon which the taxpayer claimed ninety-one percent (91%) exempt use. Upon audit, it was determined that the taxpayer used the tractor and accessories twenty-five percent (25%) for mowing and other non-exempt uses.

In lieu of an actual hearing, Taxpayer provided letters from horticulture and agricultural experts that state that the weed and cover crop rows are mown so that plants do not spread and compete with tree growth and the mowing helps protect the environment and provide easier access to the trees. Having a mow strip between the rows provides solid ground so that equipment such as tree diggers and sprayers can be used in less than perfect soil conditions.

I. Sales/Use Tax – JD955 Tractor and Mower Attachment

DISCUSSION

At issue is whether a tractor and accessories purchased by the taxpayer used in clearing areas between trees is exempt from sales and use tax. The taxpayer argues that the tractor and its attachment should be exempt because it is essential and integral to the production process.

Concerning the sales tax exemption for agricultural machinery, tools and equipment, IC 6-2.5-5-2 provides as follows:

(a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

1) the person acquiring the property acquires it for use in conjunction with the production of food or commodities for sale;

2) the person acquiring the property is occupationally engaged in the production of good for commodities which he sells for human or animal consumption or uses for further food or commodity production; and

3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

This exemption is analogous to the exemption for manufacturing machinery, tools, and equipment, and the language in the agricultural statute (IC 6-2.5-5-2) is virtually identical to that in the manufacturing statue (IC 6-2.5-5-3). While there is no reported case law interpreting the agricultural machinery exemption, there is significant case law interpreting the manufacturing machinery exemption.

One such case is *Department of State Revenue v. Cave Stone, Inc.,* 457 N.E.2d 520 (Ind 1983). In Cave Stone, the Indiana Supreme Court held that inasmuch as the finished product could be produced only if it was transported from one production step to another, the transportation equipment was "directly used" by the purchaser in the "direct product" of the total production and was exempt from sales tax. Id., at 525. Thus a key point is whether the equipment is "an integral part of manufacturing and operates directly on the product during production." Id., at 525 (quoting Department of State Revenue v. U.S. Steel, 425 N.E.2d 659, 662 (Ind. App.1981).

Furthermore the meaning of "direct production" has been strictly construed. The Cave Stone court case provided that the test for directness requires the equipment to have an immediate link with the product being produced, and that "the legislature plainly intended to limit the exemption to those items directly a part of production." 457 N.E.2d 520, 525 (quoting U.S. Steel, 425 N.E.2d 659, 662).

Additionally, 45 IAC 2.2-5-6 establishes an exemption for agricultural machinery that is used in the direct production of

agricultural commodities. State sales tax does not apply to sales of agricultural machinery, tools, and equipment to be directly used by the purchaser in the direct production, extraction, harvesting or processing of agricultural commodities. 45 IAC 2.2-5-6-(b).

45 IAC 2.2-5-13 (b) states in part that "purchases of materials to be directly consumed by the purchaser in the business of producing tangible personal property are exempt from tax provided that such materials are directly used in the production process; i.e., they have an immediate effect upon the commodities being produced. Property has an immediate effect on the commodities being produced if it is an essential and integral part of an integrated process which produces tangible personal property."

Taxpayer was already exempted from seventy-five percent (75%) of the tractor and accessories' use tax. Taxpayer has not provided proof that the twenty-five percent (25%) assessed on the price of the tractor and accessories are exempt. The two letters provided by taxpayer merely confirm that the tractor and accessories' use is to maintain the ground around which the trees are being grown. No exemption exists for the maintenance of grounds.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990438.LOF

LETTER OF FINDINGS NUMBER: 99-0438
State Corporate Income Tax
For 1993, 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Business Income

Authority: 45 IAC 3.1-1-29; IC § 6-3-1-20; IC § 6-3-1-21; *Allied-Signal Inc. v. Director Div. of Taxation*, 112 S. Ct. 2251 (1992); *May Department Stores Co. v. Ind. Department of State Revenue,* 749 N.E.2d 651 (Ind. Tax 2001)

Taxpayer protests the proposed reclassification of nonbusiness income as business income.

II. Adjusted Gross Income Tax – Foreign Dividend Deduction

Authority: IC § 6-3-2-12

The taxpayer protested the auditor's adjustments adding back taxpayer's Federal foreign dividend expense deductions to taxpayer's foreign dividend income deduction when calculating Adjusted Gross Income.

III. Adjusted Gross Income Tax – Calculation

Authority: None cited

The taxpayer protested an audit calculation that impacted other computations within taxpayer's return and which was then reversed without subsequent corrections.

IV. Adjusted Gross Income – Adjustments

Authority: None cited

Taxpayer requests adjustments to assessment based on letter of finding and court results.

V. Adjusted Gross Income – Net Operating Carryforward

Authority: None cited

Taxpayer protests classification of net operating carryforward as non-business income.

VI. Income Tax – Penalty

Authority: 45 IAC 15-11-2; IC § 6-8.1-10

Taxpayer protests the negligence penalty assessment for under reporting and under payment of estimated tax.

STATEMENT OF FACTS

Taxpayer is an industrial chemical manufacturer with production facilities located outside of Indiana. Taxpayer's holdings included both foreign investments and a 23.8% direct ownership, with a combined 71% ownership in a pharmaceutical company. Taxpayer sold the pharmaceutical company interests after 6 years of ownership and reported its proceeds from this sale as nonbusiness income, which the audit reclassified as business income. Taxpayer also received foreign dividends, which it deducted both as business expenses and as foreign dividends, audit eliminated the alleged double deduction. Taxpayer is protesting these adjustments and requesting recalculations of the audit adjustments and waiver of the penalty related to these transactions.

I. Adjusted Gross Income Tax – Business Income

DISCUSSION

"Business income" and "nonbusiness income" are defined by the Indiana Code as follows:

Sec. 20. The term "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

Sec. 21. The term "nonbusiness income" means all income other than business income. IC § 6-3-1-20 and 6-3-1-21.

The terms are similarly defined by the Indiana Administrative Code:

Sec. 29. "Business Income" Defined. "Business Income" is defined in the Act as income from transactions and activity in the regular course of the taxpayer's trade or business, including income from tangible and intangible property if the acquisition, management, or disposition of the property are integral parts of the taxpayer's regular trade or business.

Nonbusiness income means all income other than business income.

The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, non-operating income, etc., is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is "business income" or "nonbusiness income" is the identification of the transactions and activity which are the elements of a particular trade or business. 45 IAC 3.1-1-29.

In *May Department Stores Co. v. Ind. Department of State Revenue,* 749 N.E.2d 651 (Ind. Tax 2001), the Indiana Tax Court determined that IC § 6-3-1-20 provides for both a transactional test and a functional test in determining whether income is business or non-business in nature. *Id.* at 662-3.

The court looks to 45 IAC 3.1-1-29 and 30 for guidance in determining whether income is business or business income under the transactional test. These regulations state "…the critical element in determining whether income is 'business income' or 'nonbusiness income' is the identification of the transactions and activity which are the elements of a particular trade or business." *Id*. at 664. 45 IAC 3.1-1-30 lists several factors in making this determination. These include the nature of the taxpayer's trade or business; substantiality of the income derived from activities and relationship of income derived from activities to overall activities; frequency, number or continuity of the activities and transactions; length of time income producing property was owned; and taxpayer's purpose in acquiring and holding the property producing income. In *May*, the Court found that the transactional test was not met when a retailer sold a retailing division to a competitor because the taxpayer was not in the business of selling entire divisions. *Id*. at 664.

Taxpayer notes that taxpayer corporation retained ownership of the target corporation for six years, thus not constituting an interim use of idle funds. Additionally; taxpayer notes that its interest in this corporation was part of a strategy to stabilize the corporation's yearly earnings. Taxpayer corporation's sales follow national economic fluctuations while the target corporation being a pharmaceutical business was far less responsive to market fluctuations and its purchase was part of what taxpayer identified as a 'defensive' market strategy.

Taxpayer notes that contrary to the audit findings, taxpayer directly owned 23.83% and indirectly –through subsidiary corporations- owned 71% of the corporation in question, not the 100% ownership alleged in the report.

Taxpayer's sale of long held stock of the target corporation does not meet the transactional test.

The functional test focuses on the property being disposed of by the taxpayer. *Id*. at 664. Specifically the functional test requires examining the relationship of the property at issue with the business operations of the taxpayer. *Id*. at 664. In order to satisfy the functional test the property generating income must have been acquired, managed and disposed of by the taxpayer in a process integral to taxpayer's regular trade or business operations. *Id*. at 664. The Court in *May* defined "integral" as part or constituent component necessary or essential to complete the whole. *Id*. at 664-5. The Court held that the May's sale of one of its retailing division was not "necessary or essential" to May's regular trade or business because the sale was executed pursuant to a court order that benefited a competitor and not May. In essence, the Court determined that because May was forced to sale the division in order to reduce its competitive advantage, the sale could not be integral to May's business operations. Therefore, the proceeds from the sale were not business income under the functional test.

Taxpayer acquired its interest in the target company as part of a merger of a wholly owned subsidiary of taxpayer and an unrelated company, both of which were pharmaceutical companies. The acquisition of taxpayer's interest in the target company was intended to expand a line of business in which taxpayer was already engaged through its wholly owned subsidiary. Since the acquisition of taxpayer's interest in the target company resulted in expansion of an existing business line, its acquisition was clearly integral to the taxpayer's trade or business. Taxpayer, by its own admission, maintained its interest in the target company as part of a strategy to minimize risk through diversification. Therefore, taxpayer management of its interest in the target company was integral to its trade or business. Taxpayer has failed to submit any evidence that its disposition of its interest in the target company was not integral to its trade or business. Since taxpayer's acquisition and management of its interest in the target company was integral to its trade or business, the Department will presume that its disposition was integral to its trade or business absent evidence to the contrary.

The Indiana Tax Court in *May Department Stores Co. v. Ind. Department of State Revenue,* 749 N.E.2d 651 (Ind. Tax 2001)

requires both a transactional and functional analysis to determine the existence of business or nonbusiness income. Taxpayer has not demonstrated that the target company was not integral to its trade or business, thus the functional test has been met and the classification of this income as business income was correct.

FINDINGS

Taxpayer protest is denied.

II. Adjusted Gross Income Tax – Foreign Dividend Deduction

DISCUSSION

In calculating its Indiana tax liabilities, taxpayer, pursuant to IC 6-3-2-12, deducted foreign source dividend income from its Indiana adjusted gross income. Audit, however, disagreed with taxpayer's calculus. Re-calculation by Audit resulted in an increase in taxpayer's Indiana adjusted gross income and tax. Proposed assessments of Indiana adjusted gross income tax followed.

Taxpayer, in response, directs the Department's attention to the language of IC 6-3-2-12(b), which states:

A corporation that includes any foreign source dividend in its adjusted gross income for a taxable year is entitled to a deduction from that adjusted gross income. The amount of the deduction equals the product of:

the amount of the foreign source dividend included in the corporation's adjusted gross income for the taxable year; multiplied by the percentage prescribed in subsection (c), (d), or (e), as the case may be.

The aforementioned subsections (c), (d), and (e) allow corporate taxpayers to receive a one hundred percent (100%) deduction for foreign source dividends received from corporations in which a taxpayer has an eighty percent (80%) or larger ownership interest; an eighty-five percent (85%) deduction for dividends received from corporations in which a taxpayer has a fifty to seventy-nine percent (50%-79%) percent ownership interest; and a fifty percent (50%) deduction for dividends received from corporations in which a taxpayer has less than a fifty percent (50%) ownership interest. IC 6-3-2-12(c)-(e).

This statutory language is cogent and clear. IC § 6-3-2-12 authorizes pro rata deductions (based on the percentage ownership of the payor by the payee) of certain foreign source dividend income. In this instance, taxpayer has followed the statutory prescriptions in calculating its foreign source dividend deductions.

FINDING

Taxpayer's protest is sustained.

III. Adjusted Gross Income – Calculation

DISCUSSION

At one time during the audit, the auditor inadvertently deducted from non-business income expenses associated with the qualifying dividends deduction. Taxpayer and Department agree that this is an error and the appropriate adjustment will be made.

FINDING

Taxpayer protest sustained.

IV. Adjusted Gross Income – Adjustments

Throughout the protest, taxpayer has requested that any changes in business or non-business classifications, losses, or income, be reflected in the Department's assessment against taxpayer. Additionally, taxpayer notes the taxpayer has some issues that are currently before the Tax court that could result in adjustments that might affect this assessment and taxpayer is requesting that no adjustments related to these issues be permitted until a settlement or judgment is entered. The Department respectfully notes that any adjustments required by this letter of findings will serve to change the nature of all related calculations of this assessment and that any modifications due to court settlements or judgments that do not yet exist are rather speculative, but that generally any changes related to this audit period will be addressed at the time of the aforementioned settlement or judgment depending on the terms and requirements of the aforementioned settlement or judgment.

FINDING

Taxpayer protest denied.

V. Adjusted Gross Income – Net Operating Carryforward Classifications

Taxpayer argues that during the audit numerous capital loss carryforwards generated during tax years 1988-1994 were not included on taxpayer's filed returns and were discovered by taxpayer and claimed-by taxpayer- as subtraction modifications to the extent of capital gains. While the audit allowed part of this belated claim, it treated all of the capital loss carryforwards as nonbusiness income based on the determination that the capital losses incurred and capital loss carryforwards incurred were from income that was classified as non-business income. Taxpayer argues that taxpayer was entitled to claim some of the carryforward amounts as business losses and that audit's determination of the capital loss income as non-business was incorrect.

Taxpayer has made a general request that the Department should revisit taxpayer's books and review all transactions related to these losses and determine on taxpayer's behalf how taxpayer should-or could- have originally claimed these amounts on taxpayer's returns for the years in question. In taxpayer's argument the information provided by taxpayer does not support this claim. The Department respectfully declines taxpayer's invitation.

FINDING

Taxpayer protest denied.

VI. Adjusted Gross Income – Penalty

DISCUSSION

Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC § 6-8.1-10. The Indiana Administrative Code further provides in 45 IAC 15-11-2:

(b) "Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty-giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

(1) the nature of the tax involved;
(2) judicial precedents set by Indiana courts;
(3) judicial precedents established in jurisdictions outside Indiana;
(4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
(5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Taxpayer argues that the penalty was inappropriate based on taxpayer's exemplary prior performance and the reasonable nature of the calculations generating the taxable amount. Standing alone neither of the taxpayer's arguments is dispositive but they are factors which are indicative of the taxpayer's reasonable care, caution, or diligence.

FINDING

Taxpayer protest sustained.

DEPARTMENT OF STATE REVENUE

01990590.LOF

LETTER OF FINDINGS NUMBER: 99-0590
Individual Income Tax
Calendar Year 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Indiana Adjusted Gross Income – Modification of Federal Adjusted Gross Income

Authority: 45 IAC 3.1-1-1

Taxpayer protests the modifications.

STATEMENT OF FACTS

Taxpayer's was assessed additional tax based upon various adjustments on Schedule C of the Federal Tax Return. The following items were adjusted based upon records the taxpayer provided the auditor.

1) Income from additional sales in the amount of +$17,029
2) Bad debt allowance for cash basis taxpayer -$275
3) Interest deduction home mortgage -$1,115.83
4) Interest reduction credit cards -$3,240.83
5) Sales tax paid in 1997 for the tax years 1991, 1992 1993 -$5,496.22

Taxpayer submitted a protest that was received by the Indiana Department of Revenue on November 15, 1999. On May 31, 2000, the Department responded to the letter of protest, addressed each item, and advised the taxpayer that there were many inconsistencies that must be proven before the Department could reduce the assessment. No documentation had been provided and a hearing was scheduled for March 13, 2002. No one appeared for the hearing.

The Department makes its decision based upon information contained in the audit file.

I. Indiana Adjusted Gross Income – Best Information Available

DISCUSSION

Taxpayer failed to report all of its gross receipts on Schedule C for 1997 and deducted personal expenses that the auditor disallowed.

Taxpayer failed to appear for a hearing and has provided nothing to aid in the resolution of the audit.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990597.LOF

LETTER OF FINDINGS NUMBER: 99-0597
State Corporate Income Tax
For 1993, 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Business Income

Authority: IC § 6-3-2-2

Taxpayer requests the apportionment of its partnership's income for Indiana be used in computing taxpayer's Indiana tax liability.

II. Adjusted Gross Income Tax – Foreign Dividend Deduction

Authority: None cited

Taxpayer protested the audit's determination that taxpayer had a 55% ownership interest in the partnership.

STATEMENT OF FACTS

Taxpayer is a limited partner in a partnership. Taxpayer is protesting adjustments related to the apportionment of the partnership income and taxpayer's percentage of ownership of the partnership at issue.

I. Adjusted Gross Income Tax – Partnership Income Allocation

DISCUSSION

The Indiana apportionment percentage of the Partnership income was approximately 15%. The audit multiplied the partner's distribution by the taxpayer's ownership percentage of the partnership. IC 6-3-2-2 (a) states in relevant part:

> In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana.

In this situation, the Indiana apportionment percentage of the Partnership applies to the taxpayer's share of the partnership distribution.

FINDINGS

Taxpayer protest is sustained.

II. Adjusted Gross Income Tax – Percentage Ownership of Partnership

DISCUSSION

In calculating its Indiana tax liabilities, taxpayer argues that its ownership percentage of the limited partnership should not be based on taxpayer's Federal returns, specifically the K-1 report, rather the Department should rely on taxpayer's computations of its ownership interest based on a present value formula that demonstrate- according to taxpayer- that the 55% ownership interest on the Federal returns is in reality substantially less. Taxpayer cites no statutory authority for this adjustment, and while taxpayer's argument is novel, it is not sustainable.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04990624.LOF

LETTER OF FINDINGS NUMBER: 99-0624
Sales Tax
Calendar Years 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication.

It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Selling at Retail – Unreported Sales

Authority: 45 IAC 2.2-6-8; IC 6-8.1-5-1

Taxpayer protests the sales attributed to calendar year 1998.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 11-15-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The Taxpayer originally protested "buydowns" which is no longer an issue in the audit. A supplemental audit was prepared that reduced the assessment for intercompany sales for the year 1997. All of the taxpayer's related stores were closed on or before March 31, 1998. The Department was provided copies of four invoices from March 31, 1998 through October 1998 totaling $89,169.13 representing sales to a closed store.

Taxpayer merely states that it did not ship merchandise to its other location after December 1997 and was months behind in receiving payments from that location. Further, it included these sales in its income for the months shown on the wholesale sales tickets but did not include them for sales tax purposes as they were wholesale sales.

I. Selling at Retail – Unreported Sales

DISCUSSION

Taxpayer protests the assessment of additional sales tax for sales made to a store that closed before March 31, 1998. Taxpayer states these are wholesale sales not subject to tax.

In reviewing the audit report and the file, it is noted that the assessment stems from sales made to one of its locations that no longer files sales tax returns. The taxpayer to whom the product was sold was no longer in business; therefore the merchandise must have reverted back to the taxpayer and is subject to sales tax.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a penalty waiver.

Taxpayer failed to remit nearly nine percent (9%) of its sales tax due. Sales tax is a trust tax that should have been remitted to the Department.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty assessed.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120000274.LOF

LETTER OF FINDINGS NUMBER: 00-0274
For the Period: 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Income Tax – Residence

Authority: IC 6-3-2-1(a); IC 6-3-1-12; 45 IAC 3.1-1-22; IC 6-3.5-1.1-16; IC 6-8.1-10-1(e); IC 6-8.1-5-1(b)

The taxpayer protests the assessment of a County Tax on earnings for 1998.

STATEMENT OF FACTS

Taxpayer was assessed County Tax on her earnings for 1998. Taxpayer contends that she was not a county resident of Indiana for that year and thus should not be subject to the tax. More facts will be provided as needed below.

I. Income Tax – Residence

DISCUSSION

Indiana imposes an adjusted gross income tax upon the adjusted gross income "of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC 6-3-2-1(a).

Indiana Code 6-3-1-12 defines "resident" in part as,

(a) any individual who was domiciled in this state during the taxable year

The taxpayer states that she and her husband have a history of working and living in different states from each other, due to the demands of their separate professional careers. Taxpayer argues that it is true that her *husband* maintained an Indiana home, but that that she did not and that in fact she maintained a home in Chicago. To that end the taxpayer has submitted to the Department a copy of a fax cover letter from the rental agent to her, dated September 9, 1997, outlining that she would be renting a studio apartment, a copy of the lessee information fact sheet, an introductory welcome letter from the lessor to the lessee, and a move in/move out form. The "move in/move out" form indicates that the taxpayer would move in September 28, 1997, and move out an "anticipated" date of September 30, 1998.

In correspondence with the Department over this issue, the taxpayer stated the following:

> You [the Department] are also aware that [the taxpayer] did not deduct any commuting expenses as her "tax home" was Chicago, Illinois. …
>
> The balance of the documents you request appear to be to determine if [the taxpayer's] legal residence was outside of the State of Indiana. Our position is not that [the taxpayer] was a resident of Illinois, rather, our position is that [taxpayer's] tax home clearly was Chicago, Illinois.

Leaving aside what "tax home" means (it is not from the Indiana Code), the issue then can be narrowed down to domicile.

The Indiana Administrative Code, 45 IAC 3.1-1-22, notes that the definition of domicile is fact sensitive:

> The determination of a person's intent in relocating is necessarily a subjective determination. There is no one set of standards that will accurately indicate the person's intent in every relocation. The determination must be made on the facts present in each individual case. Relevant facts in determining whether a new domicile has been established include, but are not limited to:
>
> (1) Purchasing or renting residential property
> (2) Registering to vote
> (3) Seeking elective office
> (4) Filing a resident state income tax return or complying with homestead laws of a state
> (5) Receiving public assistance
> (6) Titling and registering a motor vehicle
> (7) Preparing a new last will and testament which includes the state of domicile.

The Department has asked for various documents that would serve as *indicia* of the taxpayer's residency—resident income tax returns for Illinois, vehicle registration, driver's license, etc.

Other than a copy of the rental information, the taxpayer has not provided the Department any documentation (even the fact that the taxpayer voted in Chicago is merely asserted, nothing was submitted to prove that statement). From the taxpayer's statements the Department has gleaned that the taxpayer "did have an Indiana driver's license and a car garaged in Indiana. The car was licensed in Indiana...."

Since a home was maintained in a specific Indiana county, IC 6-3.5-1.1-16(a)(1) was correctly applied to the taxpayer:

(a) For the purpose of this chapter, an individual shall be treated as a resident of the county in which he:

(1) maintains a home if the individual maintains only one (1) in Indiana;

Finally, in an early letter to the Department the taxpayer mentions that the penalty and interest should be "eliminated" too. Interest cannot be waived, by statute (IC 6-8.1-10-1(e)), and the taxpayer, who bears the burden of "proving the proposed assessment is wrong" under IC 6-8.1-5-1(b), has not made any arguments on the issue of the penalty.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420010022.LOF

LETTER OF FINDINGS NUMBER: 01-0022
Gross Retail Tax – Hauling Charges
Tax Administration – Penalty
For Tax Years 1997-1999

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Gross Retail Tax – Taxability of Delivery Charges

Authority: IC § 6-2.5-2-1; IC § 6-8.1-5-1(b); *Cowden & Sons Trucking, Inc. v. Indiana Department of Revenue*, 575 N.E.2d 718 (Ind. Tx. Ct., 1991)

Taxpayer protests the proposed assessment of Indiana's gross retail tax on hauling charges for contractor/customers lacking standing accounts with sand and gravel quarries.

II. Tax Administration – Penalty

Authority: IC § 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the imposition of the 10% negligence penalty for tax year 1997.

STATEMENT OF FACTS

Taxpayer, an Indiana corporation, uses its own trucks to transport sand and gravel from quarries to contractor/customers. Some customers have standing accounts with the quarries (hereinafter group A); others do not (hereinafter group B). Group A customers pay the quarries directly for sand and gravel, including applicable gross retail taxes. Taxpayer picks up and delivers the goods. For Group B customers, taxpayer obtains the ordered material from the quarry, which then weighs the truck to determine how much product is being purchased. Taxpayer then pays the price of the product and the gross retail tax. Upon arrival at the group B customer's place of business, taxpayer presents a single invoice to the customer, listing the price of the goods, the gross retail tax on the goods, and a charge for hauling the sand and gravel. The customer pays the total amount of the invoice; taxpayer does not collect and remit gross retail tax on the hauling charge. Taxpayer does collect and remit gross retail tax on the sand and gravel for Group B deliveries.

The Audit Department audited taxpayer for tax years 1997-1999 and issued a proposed assessment of gross retail tax on the hauling charges for the group B customers. Audit's rationale rests on the lack of an explicit agreement between taxpayer and the Group B customers that title to the goods passed prior to their delivery. Audit also assessed the 10% negligence penalty for tax year 1997 only as taxpayer received refunds for tax years 1998 and 1999. Further information will be added as necessary.

DISCUSSION

Taxpayer protests Audit's proposed assessment of gross retail tax on hauling charges stated separately on invoices taxpayer uses to bill customers who have no standing accounts with sand and gravel quarries (Group B customers). Audit's rationale for the proposed assessment is that the parties did not explicitly agree that title to the goods passed to Group B customers at the quarry.

Under IC § 6-8.1-5-1(b), a "notice of proposed assessment is *prima facie* evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Taxpayer has met the burden of proof in this case.

Taxpayers selling at retail have a duty to collect and remit sales tax: "(a) [a]n excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana. (b) [t]he person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state." (IC § 6-2.5-2-1).

Under applicable Indiana case law, the hauling charges are not taxable in the sand and gravel hauling industry. *Cowden & Sons Trucking v. Indiana Department of Revenue*, 575 N.E.2d 718 (Ind. Tx. Ct., 1991, is directly on point. The Tax Court, in upholding the taxpayer's claim for a refund of gross retail taxes paid on hauling charges, stated, " services performed prior to a transfer of property indicate an inextricable transaction wholly subject to sales tax, [citation omitted], and services performed after a transfer of property indicate a divisible transaction in which the sale is taxed, but the services are not." *Cowden,* 575 N.E.2d at 722. The Court found that Cowden, like taxpayer in the instant case, acquired the goods as a favor to a certain class of its customers, and the "hauling services are provided concurrently with the transfer of stone...; therefore, the temporal relationship of the two events does not indicate whether the transaction is inextricable and indivisible...." *Id*. at 723. Taxpayer has met its burden in this protest by showing how precisely its business tracks *Cowden*.

FINDING

Taxpayer's protest concerning an alleged failure to collect and remit the state's gross retail tax on hauling charges for one class of contractors/customers lacking standing accounts with quarries is sustained.

II. Tax Administration – Penalty

Taxpayer protests the imposition of the 10% negligence penalty. Taxpayer argues that it had reasonable cause for its failure to pay the appropriate amount of tax due.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

Taxpayer did not collect and remit other gross retail taxes for which they were responsible because of a software error. The error was not discovered until discrepancies appeared in taxpayer's records. Taxpayer exercised the requisite degree of "ordinary business care and prudence." Further, as taxpayer's protest has been sustained on the merits, there is no reason to impose the 10% negligence penalty.

FINDING

Taxpayer's protest concerning the imposition of the 10% negligence penalty is sustained.

DEPARTMENT OF STATE REVENUE

0220010027.LOF

Letter of Findings: 01-0027
Special Corporation Income Tax
For the Tax Periods Ending 1997, 1998, and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Disallowed Business Expense Deductions

Authority: IC 6-8.1-5-1(b); IC 6-8.1-5-1(c); I.R.C. § 105; I.R.C. § 162; American Foundry v. Commissioner, 536 F.2d 289 (9th Cir. 1976); Chism's Estate v. Commissioner, 322 F.2d 956 (9th Cir. 1963)

Taxpayer argues that the audit erred in disallowing certain business expense deductions claimed by the taxpayer.

II. Notice of Resolution

Authority. IC 6-8.1-3-17; IC 6-8.1-5-2(a)

Taxpayer maintains that the Department of Revenue (Department), having erroneously issued a Notice of Resolution for taxpayer's 1999 liabilities, absolved the taxpayer from any additional tax liabilities for the tax periods ending in 1997, 1998, and 1999.

III. Abatement of the Ten Percent Negligence Penalty

Authority. IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c); I.R.C. § 162

Taxpayer argues that the audit was without basis in deciding to impose the ten percent negligence penalty.

FACTS

Taxpayer is an automobile dealership reporting its income as an Indiana special corporation. The audit examined the taxpayer's Special Corporation Tax Returns for the tax periods ending in 1997, 1998, and 1999. The audit found that taxpayer's adjusted gross income calculation was based on its federal taxable income as adjusted for Indiana modifications. In reviewing taxpayer's federal returns, the audit disallowed certain of taxpayer's claimed business expenditures. The disallowed expenditures related to reimbursements made to taxpayer's primary shareholder. The audit disallowed payments made to reimburse primary shareholder for medical and credit card expenditures. Thereafter, the audit assessed taxpayer for additional income taxes for the three tax periods.

On December 27, 2000, the Department received taxpayer's protest of the audit's determinations. On March 27, 2001, the Department sent taxpayer a "Notice of Resolution." In that notice, the Department stated that, "Your recent explanation and/or payment with respect to the notice previously mailed to you is satisfactory. No further action is required on your part." In effect, the notice purportedly absolved taxpayer of the additional assessment for one of the three tax periods, the period ending in 1999. The Department later determined that the Notice of Resolution was erroneously issued.

Taxpayer pursued its original protest. An administrative hearing was held, and this Letter of Findings followed.

DISCUSSION

I. Adjusted Gross Income Tax – Disallowed Business Expense Deductions

Taxpayer maintains that the audit erred in disallowing certain of taxpayer's business expenses. Taxpayer asserts that the reimbursements of majority shareholder's expenses were legitimate business expenses and should not have been disallowed.

During a portion of the year, majority shareholder lived at an out-of-state location. The taxpayer reimbursed the majority shareholder for certain of majority shareholder's out-of-state expenses including medical and drug costs, payments for health and

life insurance, equipment costs, and utility expenses. The audit determined that some of the expenses were majority shareholder and his spouse's personal expenses. Accordingly, the audit disallowed those expenses which it determined were "personal."

In effect, taxpayer's maintains that the disbursements made to majority shareholder were ordinary and necessary business expenses. Under I.R.C. § 162:

> (a) In general. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including --
>
> (1) a reasonable allowance for salaries or other compensation for personal services actually rendered;
>
> (2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and
>
> (3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

Taxpayer places special emphasis on the payment of majority shareholder's medical expenses arguing that these reimbursements constituted a medical reimbursement plan. In support of that assertion, taxpayer cites to I.R.C. § 105. However, there is no indication in either I.R.C. § 105 or I.R.C. § 162 that qualifying medical payments can be made on an ad hoc basis or pursuant to a post facto plan. American Foundry v. Commissioner, 536 F.2d 289, 293 (9th Cir. 1976); *See also* Chism's Estate v. Commissioner, 322 F.2d 956, 961 (9th Cir. 1963).

Taxpayer has presented nothing to indicate that the reimbursements for medical expenses constituted a "reasonable allowance for salaries or other compensation" or that the reimbursements were made in accordance with a reciprocal agreement for "personal services actually rendered." In addition the courts have determined that a "plan" is a necessary precondition to the operation of I.R.C. § 105. American Foundry, 536 F.2d at 294. As that court stated, "To allow otherwise would permit a close corporation to transfer, tax-free, significant dividends in the form of health, welfare, and disability payments to stockholders, without meaningful reference to their role as employees." Id.

Taxpayer is, of course, free to make whatever payments it wishes to majority shareholder. However, absent any indication that reimbursement of majority shareholder's medical expenses was made pursuant to a health plan, that they were made in return for personal services actually rendered, or that the reimbursements were made as part of majority shareholder's compensation, the reimbursements do not fall within the purview of I.R.C. § 162 as deductible business expenses.

Taxpayer implies that the Department is required to sort through taxpayer's numerous transactions and to demonstrate which of its expenses are "non-business" expenses. Taxpayer errs. The requirements for establishing a "business expense" under I.R.C. § 162 are specifically drawn and it is the taxpayer – being most familiar with its own business practices – which is in the best position of making those determinations and thereafter providing a substantive basis for those determinations. Specifically, IC 6-8.1-5-1(b) provides that "[t]he burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Although IC 6-8.1-5-1(c) requires that the Department provide the taxpayer a venue in which to protest the classification of its expenses and the consequent assessments, in this instance taxpayer failed to take full advantage of that opportunity and has provided no basis upon which to determine the classification of the expenses or the additional assessments were incorrect.

FINDING

Taxpayer's protest is respectfully denied.

II. Notice of Resolution

Taxpayer argues the Department's erroneously issued March 27, 2001, "Notice of Resolution" absolved it from further responsibility for the assessments audit imposed for the tax periods ending 1997, 1998, and 1999. The unsigned Notice of Resolution states:

> Your recent explanation and/or payment with respect to the notice previously mailed to you is satisfactory. No further action is required on your part. However, you may still be responsible for any liabilities during the period ending 09/30/1999 proven to be owed by you at a later date. We appreciate your cooperation in this matter.

The letter is addressed to taxpayer, references specifically one of the three tax periods examined during the audit, and was issued some three months after the Department received taxpayer's original protest letter.

Although, the language contained within the Notice of Resolution can be fairly interpreted as a response to taxpayer's original protest letter, there is no merit in taxpayer's suggestion that the letter impliedly absolved taxpayer from liability for 1997 and 1998. There is no indication that the Notice of Resolution was the product of fraud or duplicity. In addition, the Department was acting with its express statutory authority to settle the disputed tax issue once taxpayer had placed that issue under protest. IC 6-8.1-3-17.

However, a notice of "Proposed Assessment" was prepared and issued by the Department on March 4, 2002. That notice informed the taxpayer that it owed additional income taxes for the tax period ending in 1999. The notice informed the taxpayer that it owed additional income taxes in an amount equal to the assessment originally imposed by the audit.

The March 4 notice was issued within the time limitations established under IC 6-8.1-5-2(a). The statute establishes the limitations period as follows: "Except as otherwise provided in this section, the department may not issue a proposed under section 1 of this

chapter more than three (3) years after the latest of the date the return is filed, or any of the following: (1) the due date of the return of the return...."

Taxpayer's original 1999 return was due on January 15, 2000. Therefore, under IC 6-8.1-5-2, the Department had until January 15, 2003, in which to issue an additional assessment. The March 4, 2002, notice fell well within the statutory time limitation and had the effect of "reviving" the assessment of additional taxes owed for the 1999 tax period.

FINDING

Taxpayer's protest is respectfully denied.

III. Abatement of the Ten Percent Negligence Penalty

Taxpayer argues that the audit acted capriciously in imposing the ten percent negligence penalty.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Department regulation 45 IAC 15-11-2 provides guidance in determining if the taxpayer was negligent.

Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer issued seemingly undifferentiated reimbursements for personal expenses incurred by majority shareholder and then claimed those reimbursements as business deductions. Taxpayer is a substantial and sophisticated business entity fully capable of understanding that deductible business expenses are specifically limited to those "ordinary and necessary expenses paid or incurred... in carrying on [its] trade or business" including compensation for "personal services actually rendered." I.R.C. § 162.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0220010063.LOF

LETTER OF FINDINGS NUMBER: 01-0063
Adjusted Gross Income Tax
For the Tax Periods Ending in 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Disallowance of Royalty and Interest Expenses – Adjusted Gross Income Tax

Authority: IC 6-3-1-3.5(b); IC 6-3-2-2(l); IC 6-8.1-5-1(b); Gregory v. Helvering 293 U.S. 465 (1935); Lee v. Commissioner of Internal Revenue, 155 F.2d 584 (2d Cir. 1998); Horn v. Commissioner of Internal Revenue, 968 F.2d 1229 (D.C. Cir. 1992); Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570 (2nd Cir. 1949); Bethlehem Steel Corp. v. Ind. Dept. of State Revenue, 597 N.E.2d 1327 (Ind. Tax Ct. 1992); 45 IAC 3.1-1-8

Taxpayer maintains that the audit, in calculating its Indiana adjusted gross income, erroneously disallowed certain royalty and interest expenses paid to a related holding company.

II. Abatement of the Ten Percent Negligence Penalty

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer maintains that the Department should exercise its discretion and abate the ten percent negligence penalty assessed at the time of the audit. Taxpayer argues that the tax deficiencies were not attributable to its negligence.

STATEMENT OF FACTS

Taxpayer is an out-of-state company in the business of selling industrial, medical, and specialty gases. Taxpayer does business in Indiana and various other states. In 1996, taxpayer's parent company formed a Delaware holding company. Taxpayer, along with other members of the federal affiliated group, then transferred its trade names and related goodwill (Hereinafter "intellectual property") to the holding company in an I.R.C. § 351 tax-free exchange in return for 100 percent of the holding company's stock. At the same time, the holding company and taxpayer – along with the other members of the affiliated group – entered into a licensing agreement permitting taxpayer continued use of the intellectual property. According to taxpayer, the fair market value of the

intellectual property at the time of the transaction was determined by an independent third-party. After the holding company received the royalty payments, the holding company loaned the payments back to the taxpayer and the other members of the affiliated group. The holding company charged taxpayer and the other members of the affiliated group interest for the loans at the market rate. The taxpayer's Indiana taxable income was reduced by the consequent deduction of the royalty and interest expenses.

The audit disallowed the royalty and interest expense deductions on the ground that the transactions lacked economic substance and that allowing the taxpayer to deduct the expenses did not fairly reflect the taxpayer's Indiana income. Taxpayer protested that determination, an administrative hearing was held, and this Letter of Findings followed.

DISCUSSION

I. Disallowance of Royalty and Interest Expenses – Adjusted Gross Income Tax

IC 6-3-1-3.5(b) provides the starting point for determining taxpayer's taxable income stating that the term "adjusted gross income" shall mean, "In the case of corporations the same as 'taxable income' (as defined in Section 63 of the Internal Revenue Code...." The Department's Administrative Rules repeats the basic principle at 45 IAC 3.1-1-8 stating that "'Adjusted Gross Income' with respect to corporate taxpayers is 'taxable income' as defined in Internal Revenue Code – section 63)...." However, the taxpayer's federal "adjusted gross income" is merely the starting point; IC 6-3-1-3.5(b) thereafter requires that the individual taxpayer make certain additions and subtractions to that starting point, the details of which are not relevant here.

The audit disallowed taxpayer's royalty and expense deductions under IC 6-3-2-2(l) which states as follows:

> If the allocation and apportionment provisions of this article do not fairly reflect the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> (1) separate accounting;
>
> (2) the exclusion of any one (1) or more of the factors;
>
> (3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Taxpayer argues that IC 6-3-2-2(l) permits the Department to adjust only the allocation and apportionment of taxpayer's I.R.C. § 63 adjusted gross income and – except for the enumerated provisions contained within IC 6-3-1-3.5(b) – the Department is wholly without authority to disallow the royalty and interest deductions allowed under the federal tax scheme.

Taxpayer places too formalistic an interpretation on the authority granted the Department under IC 6-3-2-2(l). The plain language of the law states that "[i]f the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana... the department may require, in respect *to all or any part of the taxpayer's business activity*... the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income." (*Emphasis added*).

The audit was without authority to contravene the royalty and interest expense deductions legitimately claimed on the taxpayer's federal return. However, if the auditor believed that the effect of those deductions was to misallocate the taxpayer's Indiana income, IC 6-3-2-2(l) plainly granted the Department the authority to ignore the effect of the federal deductions and allocate that income to Indiana.

The audit determined that both the initial transfer of taxpayer's intellectual property to the Delaware holding company, and the consequent payment of royalty fees and interest back to the Delaware holding company, was without economic substance for the following reasons:

1. Other than the transfer of 100 percent of the Delaware holding company's stock, the Delaware holding company provided no other consideration for the receipt of the trade names and related good will;
2. After the Delaware holding company received the royalty payments, it loaned those proceeds back to taxpayer – together with other members of the affiliated group – and charged interest at the market rate;
3. All of the income received by the Delaware holding company was derived from the interest payments paid by taxpayer and the other members of the affiliated group.
4. The royalty and interest income received by the Delaware company was not subject to that state's income tax (*See* Del. Code Ann. tit. 30 § 1902(b)(8)) or any other state's income tax.
5. The Delaware holding company incurred none of the of the costs and performed none of the activities that created, enhanced, or protected the value of the trade names prior to the time the intellectual property was assigned to the Delaware holding company.
6. The only time that the Delaware holding company charged royalty fees to taxpayer and the other members of the affiliated group, was when a state tax benefit could be obtained.
7. The profitability of taxpayer and other members of the affiliated group was significantly decreased by the transfer of the intellectual property thereby invalidating the taxpayer's assertion that the transfer was made for legitimate purposes.

The audit was plainly justified in determining that taxpayer's royalty and interest federal deductions artificially distorted

taxpayer's Indiana income and in disallowing those expenses in order to "more fairly represent" the amount of taxpayer's income apportioned to Indiana and to effectuate a more equitable apportionment of the taxpayer's Indiana income.

In addition, the audit would have been justified in disallowing the royalty and interest deductions on the ground that the expenses were incurred as a result of a "sham transaction."

The "sham transaction" doctrine is well established both in state and federal tax jurisprudence dating back to Gregory v. Helvering 293 U.S. 465 (1935). In that case, the Court held that in order to qualify for a favorable tax treatment, a corporate reorganization must be motivated by the furtherance of a legitimate corporate business purpose. Id at 469. A corporate business activity undertaken merely for the purpose of avoiding taxes was without substance and "[t]o hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose." Id at 470. The courts have subsequently held that "in construing words of a tax statute which describe [any] commercial transactions [the court is] to understand them to refer to transactions entered upon for commercial or industrial purposes and not to include transactions entered upon for no other motive but to escape taxation." Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570, 572 (2nd Cir. 1949), *cert denied,* 338 U.S. 955 (1950). "[t]ransactions that are invalidated by the [sham transaction] doctrine are those motivated by nothing other than the taxpayer's desire to secure the attached tax benefit" but are devoid of any economic substance. Horn v. Commissioner of Internal Revenue, 968 F.2d 1229, 1236-37 (D.C. Cir. 1992). In determining whether a business transaction was an economic sham, two factors can be considered; "(1) did the transaction have a reasonable prospect, ex ante, for economic gain (profit), and (2) was the transaction undertaken for a business purpose other than the tax benefits?" Id. at 1337.

Taxpayer maintains that the transfer of its intellectual property to the Delaware holding company was made for a legitimate business purpose. Taxpayer argues that the royalty and interest payments were made in furtherance of that business purpose, that the payments were made at arms length, and that the value of the intellectual property – and the consequent payments to the Delaware holding company – were determined by an independent third-party.

There is no evidence that taxpayer's business operations changed after the intellectual property was transferred to the Delaware holding company. There is no evidence that the Delaware holding company performed any of the work necessary to preserve or enhance the value of the intellectual property. There is no evidence that the Delaware holding company incurred any independent expenses to manage, preserve, or enhance the value of the intellectual property. There is no evidence that the Delaware holding company ever exercised any independent authority over "its" intellectual property or that it ever had the actual authority to do so. There is no evidence that the Delaware holding company exercised any independent business judgment in an effort to more fully exploit the value of the intellectual property. There is no evidence that the various transactions entered into between taxpayer and the Delaware holding company in any way added to the value of the intellectual property.

The question of whether or not a transaction is a sham, for purposes of the doctrine, is primarily a factual one. Lee v. Commissioner of Internal Revenue, 155 F.2d 584, 586 (2d Cir. 1998). The taxpayer has the burden of demonstrating that the subject transaction was entered into for a legitimate business purpose. IC 6-8.1-5-1(b).

The taxpayer has failed to meet its burden of demonstrating that the transfer of the intellectual property to the Delaware holding company or that the royalty and interest payments subsequently made were supported by any business purpose other than tax avoidance. Taxpayer's tender of royalty and interest payments was entirely illusory; the royalty payments were returned to the taxpayer in form of loans. Any value the Delaware holding company received from the interest payments accrued entirely to the benefit of taxpayer and the members of the affiliated because the Delaware holding company was entirely owned by taxpayer and its affiliates.

Taxpayer is, of course, entitled to structure its business affairs in any manner its sees fit and to vigorously pursue any tax advantage attendant upon the management of those affairs. However, in determining the nature of a business transaction and the resultant tax consequences, the Department is required to look at "the substance rather than the form of the transaction." Bethlehem Steel Corp. v. Ind. Dept. of State Revenue, 597 N.E.2d 1327, 1331 (Ind. Tax Ct. 1992).

FINDING

Taxpayer's protest is respectfully denied.

II. Abatement of the Ten Percent Negligence Penalty

Taxpayer maintains that its tax deficiency was not due to negligence and that it exercised reasonable care in respect to the duties placed upon it by the Indiana code and Department regulations.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed..."

Despite the corrections made at the time of the original audit and the issues raised within taxpayer's protest, under the facts and circumstances as indicated in the record, taxpayer has demonstrated that it "exercised ordinary business care" and is therefore entitled to abatement of the ten percent negligence penalty.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0220010163.LOF

LETTER OF FINDINGS NUMBER: 01-0163
Corporate Income Tax
Ffor Tax Periods: 1993-1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. Income Tax – Unrelated Business Income

Authority: 26 USC 513, IC 6-2.1-3-23, IC 6-3-2-3.1, Income Tax Information Bulletin #84, November 1992

The taxpayer protests the assessment of income tax on unrelated business income.

2. Tax Administration – Statute of Limitations

Authority: IC 6-8.1-5-2(a), Income Tax Information Bulletin #17, June 1992

The taxpayer protests the assessment of income tax on two years.

STATEMENT OF FACTS

The taxpayer was organized in 1990 as a not for profit corporation related to another not for profit corporation in order to raise money for local charities through bingo and other legal charitable gaming operations. The taxpayer applied for and received status as a wholly exempt charitable organization for both federal and state purposes. The taxpayer's gaming qualification and bingo license applications were filed with information from the related not for profit corporation. Since the taxpayer did not use its own corporate information on the applications, it was never licensed to conduct gaming activities. Although the taxpayer was not properly licensed, it operated the bingo activity including the sale of pulltabs, tipboards and related activities as a separate proprietary operation. The taxpayer filed the IT-35AR informational return for the tax years 1997 and 1998. It never filed the required IT-20NP returns or paid the income tax on its unrelated income. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed income tax, interest and penalty. At the taxpayer's request, a hearing was held. Further facts will be provided as necessary.

1. Income Tax – Unrelated Business Income

DISCUSSION

For gross income, adjusted gross and supplemental net income tax purposes, charitable organizations owe income taxes on unrelated business income as defined at 26 USC 513 stated in pertinent part as follows:

> ... any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the property derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting basis for its exemption....

The department published its interpretation of these statutes and their relation to charitable gaming in Income Tax Information Bulletin #84, November 1992. That policy statement, pursuant to IC 6-3-2-3.1 and IC 6-2.1-3-23, identifies certain charity gaming income from qualified organizations as not subject to income taxes. It also specifically states that any illegal income received by charitable organizations is considered unrelated business income and subject to income taxes.

Since the taxpayer did not hold a valid charity gaming license, the income from the bingo, tip boards and pulltabs was illegally obtained from unauthorized activities. This income met the criteria of taxable unrelated business income.

FINDING

The taxpayer's protest is denied.

2. Tax Administration: Statute of Limitations

DISCUSSION

The statute of limitations, found at IC 6-8.1-5-2(a), requires that the department issue all notices of proposed assessment within three years after the return is filed. Pursuant to the departmental instructions in Income Tax Information Bulletin Number 17, dated June, 1992, not-for-profit corporations are required to file I-35 AR informational returns and IT-20 NP's reporting and computing income tax on unrelated business income.

The taxpayer contends that its filing IT-35 AR returns for several of the taxable years began the running of the statute of limitations for those years. The taxpayer was also required to file IT-20 NP's for each year it had unrelated business income. The taxpayer did not file these returns nor report this income in any other fashion. Therefore, the statute of limitations did not begin to run on the income taxes due on unrelated business income. The notices of proposed assessment for additional taxes on unrelated business income were issued timely.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120010173
032001074.LOF

LETTER OF FINDINGS NUMBER: 01-0173; 01-0174
Withholding and Individual Income Tax
For the Years 1992 through 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Property Tax Expenses

Authority: IC 6-8.1-5-1(b)

Taxpayer maintains that the audit employed incorrect figures in determining the amount of property tax expenses taxpayer was entitled to deduct from his income derived from the rental of that property.

II. Entertainment Income

Authority: IC 6-8.1-5-1(b)

Taxpayer argues that the audit erred in attributing to his income the amount of "cover charges" assessed against tavern patrons on the nights on which live music was provided at one of his taverns.

III. Additional Payroll Expense – Withholding Taxes

Authority: IC 6-3-4-8(a); IC 6-3-4-8(f); IC 6-3-4-8(g); IC 6-8.1-5-1(b)

Taxpayer maintains that the audit erred in assessing additional withholding taxes.

IV. Property Taxes Paid on Personal Residence

Authority: IC 6-3-1-3.5(a); IC 6-3-1-3.5(a)(17)

Taxpayer argues that he paid property taxes on his personal residence and that he should be permitted to deduct the amount of those property taxes.

STATEMENT OF FACTS

Subsequent to 1991, taxpayer decided to stop filing either federal or state income tax returns. During 2001, taxpayer was audited and assessed individual income tax and additional withholding taxes. Because taxpayer failed to keep complete records, the audit assessed the taxes based upon certain assumptions some of which the taxpayer maintains are erroneous.

Taxpayer received income from the rental of various properties and from the operation of two taverns. Income from the two taverns was derived from the sale of beer, mixed drinks, soft drinks, food, and the operation of gaming machines. In addition, the taxpayer arranged for local bands to provide music at his taverns. On the nights when music was provided, taxpayer imposed a cover charge at one of the taverns.

The taxpayer did not maintain separate accounting records for the two taverns. Taxpayer paid all expenses for both taverns out of one checkbook. Taxpayer did not maintain cash register receipts or any other form of primary documentation that would authoritatively verify the income received from the taverns. Accordingly, the audit made various projections – based upon the cost of goods purchased for use at the taverns – to arrive at a calculation of taxpayer's income derived from the two taverns.

One of taxpayer's taverns was operated seven days each week. (Hereinafter "seven-day tavern"). The second tavern was operated only on Thursday, Friday, and Saturday. (Hereinafter "three-day tavern"). Taxpayer maintained that, as sole proprietor, he operated the three-day tavern without any other assistance. Taxpayer further asserts that he hired one person to operate the seven-day tavern on Thursday, Friday, and Saturday. This single employee worked from 5:30 PM to 1:30 AM and received approximately $3.50 per hour. Taxpayer operated the seven-day tavern the remaining four days each week. Therefore, according to taxpayer, the two taverns were operated with the smallest number of employees physically possible.

According to taxpayer, ASCAP (American Society of Composers, Authors and Publishers) rated the seven-day tavern as

accommodating 75 persons. Taxpayer admits that additional patrons could be accommodated. The seven-day tavern offered beer, mixed drinks, food, and soft drinks. In addition, the seven-day tavern provided live music, pool tables, and gaming machines for its patrons.

Except for the pool tables, the three-day tavern offered patrons the same amenities as the seven-day tavern. In addition, the three-day tavern had a 400 square foot dance floor. According to taxpayer, the three-day tavern could accommodate 200 patrons.

DISCUSSION

I. Property Tax Expenses

In addition to the two taverns, taxpayer owns certain rental properties. Taxpayer claimed as deductible expenses the property taxes associated with those rental properties. Taxpayer argues that the audit erred in its calculation of the amount of property taxes for the years 1994 through 1999 and has presented figures which increase the amount which taxpayer is entitled to deduct.

The audit's determinations are presumed correct. It is the taxpayer's responsibility to refute the audit's determinations. "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is wrong." IC 6-8.1-5-1(b).

The amount of property taxes paid on taxpayer's rental properties has been calculated and affirmed by taxpayer's accountant based upon primary and authoritative documentation. The taxpayer has met its burden of demonstrating that the proffered property tax figures are correct.

FINDING

Taxpayer's protest is sustained.

II. Entertainment Income

Taxpayer provided live music at both of his taverns. At the three-day tavern, patrons did not pay a cover charge. Taxpayer paid the bands at the three-day tavern, and the audit allowed those band expenses as a deduction.

At the seven-day tavern, patrons paid a cover charge when live music was provided. According to taxpayer, one of the band members or an associate of the band collected the cover charges and retained the cover charges in their entirety. Those accumulated cover charges represented the exclusive payment received by the bands at the seven-day tavern.

The audit found that the purported cover arrangement at the seven-day tavern lacked credibility and assessed – as income constructively received – additional income taxes on the cover charges received at the seven-day bar.

Subsequent to the administrative hearing, taxpayer arranged to provide evidence establishing that the band members, or their representative, collected the cover charges and that the accumulated cover charges constituted the bands' exclusive payment. This evidence purports to substantiate taxpayer's assertion that the cover charges should not be imputed to the taxpayer as personal income.

Taxpayer has operated the seven-day tavern since 1979. Common sense would dictate that during the 20-some years taxpayer operated the seven-day tavern, bands have performed – and cover charges have been imposed – on numerous occasions. It is undisputed, that taxpayer declined to report any of his income since 1991. Given those circumstances – and in the absence of any substantive evidence documenting the agreements taxpayer had with the bands performing at the seven-day tavern – the anecdotal information supporting taxpayer's assertion is insufficient to overcome the presumption imposed under IC 6-8.1-5-1(b).

FINDING

Taxpayer's protest is respectfully denied.

III. Additional Payroll Expense – Withholding Taxes

According to taxpayer, only one other person was ever employed to assist in operating the two taverns. That single employee operated the seven-day tavern on Thursdays, Fridays, and Saturdays – the three days on which taxpayer alone operated the three-day tavern.

The audit found this purported arrangement unlikely and assessed additional withholding taxes in the belief that operation of the two taverns required more employees than the number claimed by the taxpayer.

Audit based its calculation on the number of hours the taverns were open, the estimated number of employees required to operate the two taverns, the number of days the two taverns were open each year, and on the estimated hourly wage received by the employees. Based on that calculation, the audit determined that taxpayer spent approximately $48,000 each year on wages and assessed the additional withholding taxes for 1997, 1998, 1999, and 2000 accordingly.

Taxpayer presents figures to refute the audit's calculation. Taxpayer asserts that he paid approximately $14,000 in wages during 2000 and $42,000 in wages during 2001. Taxpayer provides no information to specifically refute audit's determinations for 1997, 1998, and 1999 but argues that he should be entitled to extrapolate the available figures for 2000 and 2001 backwards in time to arrive at a more accurate determination of the wages paid during those earlier years.

It is not refuted that taxpayer actually forwarded withholding tax to Indiana during 1997, 1998, and 1999. Based on the amount of withholding taxpayer actually remitted to the state during those three years, taxpayer originally maintained that he paid approximately $1,800, $2,800, and $1,300 in wages during 1997 through 1999.

Every employer paying wages subject to the federal withholding tax is required to withhold, collect, and remit Indiana

withholding on the wages paid to its own employees. IC 6-3-4-8(a). Once the employer withholds the tax on wages paid to his employees, the employer holds those taxes in trust for the state. IC 6-3-4-8(f). If the employer should fail to withhold the appropriate amount of taxes, the employer becomes individually liable for the amount of withholding tax which should have been remitted to the state. IC 6-3-4-8(g).

The notice of unpaid withholding tax is prima facie evidence that the Department's claim for the unpaid withholding tax is correct. IC 6-8.1-5-1(b). The burden is on the taxpayer to demonstrate that the Department's claim for the unpaid withholding taxes is incorrect. Id.

Taxpayer apparently failed to submit any withholding taxes before 1997. Taxpayer admits that he had at least one weekly employee working at the seven-day tavern during the years before 1997. For the year 2001 – the first year in which complete records were apparently maintained – taxpayer admits paying wages totaling approximately $42,000. In contrast, taxpayer originally claimed paying $1,800, $2,800, and $1,300 in wages during 1997 through 1999, an assertion – based on the facts and circumstances surrounding the operation of taxpayer's various business operations – which lacks a certain credibility.

Taxpayer asks the Department to accept the proposition that he was able to simultaneously operate two taverns while employing one other employee who worked alone three nights each week at the seven-day tavern. The single employee – or taxpayer working alone – would have been responsible for preparing and serving food and beverages at taverns which were capable of accommodating up to 200 or more patrons including those nights on which live music was performed. In addition to preparing and serving food and beverages, this single person would have been responsible for performing every other duty ancillary to the operation of the taverns while simultaneously meeting the needs of the patrons. Taxpayer asks the Department to accept the assertion that this work would have been performed by one person without the assistance of another bartender, assistant, clean-up person, host, waiter, or waitress. In addition, taxpayer asks the Department to accept on face value the assertion that he worked alone, seven days a week, each and every day on which either tavern was open for at least the last twelve years. Taxpayer asks too much of the Department.

Taxpayer fails to meet the burden of proof mandated under IC 6-8.1-5-1(b).

FINDING

Taxpayer's protest is respectfully denied.

IV. Property Taxes Paid on Personal Residence

Taxpayer argues that he is entitled to claim a deduction against his 1999 state income taxes for the property taxes paid on his personal residence.

The starting point for determining an individual's income tax liability is "adjusted gross income" as defined by I.R.C. § 62. IC 6-3-1-3.5(a). The taxpayer is entitled to make certain deductions from the amount of federal "adjusted gross income" including a deduction for local property taxes. IC 6-3-1-3.5(a)(17). In relevant part that law states as follows:

When used in IC 6-3, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows...

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars ($2,500): or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

Taxpayer has provided primary documentation establishing that he paid approximately $600 in 1999 property taxes. Because taxpayer has met his burden of demonstrating that he paid 1999 property taxes and that those property taxes were paid on his primary residence, taxpayer is entitled to claim the deduction provided under IC 6-3-1-3.5(a)(17).

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0220010188
0220010190.LOF

LETTER OF FINDINGS: 01-0188; 01-0190
Indiana Corporate Income Tax
For the Years 1991 through 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Taxpayer Holding Company Acting in an Agency Capacity – Gross Income Tax

Authority: IC 6-2.1-2-2(a)(1); IC 6-2.1-2-2(a)(2); Policy Management Systems Corp. v. Indiana Department of State Revenue, 720 N.E.2d 20 (Ind. Tax Ct. 1999); Universal Group Limited v. Indiana Department of State Revenue, 642 N.E.2d 553 (Ind. Tax Ct. 1994); Universal Group Ltd v. Indiana Department of Revenue, 609 N.E.2d 48 (Ind. Tax. Ct. 1993); 45 IAC 1-1-54; 45 IAC 1-1-54(2)

Taxpayer holding company argues that it is not subject to Indiana's gross income tax scheme.

II. Sale of Real Property – Deduction for Encumbrance Secured by the Real Property

Authority: IC 6-2.1-3-16; IC 6-8.1-5-1(b); 45 IAC 1-1-110; 45 IAC 1-1-147; 45 IAC 1-1-148

Taxpayer operating company maintains that the amount of proceeds derived from the sale of its Indiana real property should be reduced by the amount of those proceeds which were used to pay down the encumbrance held against that real property.

III. Abatement of the Ten Percent Negligence Penalty

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer argues that it is entitled to an abatement of the ten percent negligence penalty.

STATEMENT OF FACTS

This Letter of Findings addresses a joint protest filed by two closely related, out-of-state companies. Hereinafter, the companies are designated as taxpayer holding company and taxpayer operating company.

Taxpayer operating company operates three restaurants in Indiana under various trade names. Taxpayer operating company has no other Indiana business activities other than the restaurant operations.

Taxpayer holding company holds real estate and personal property used by taxpayer operating company. The real estate and personal property is used in the operation of the three Indiana restaurants. Taxpayer holding company was incorporated in 1969 for the purpose of holding the various restaurant properties including the property located within Indiana.

The officers and directors of the two companies are identical. According to taxpayer's representative, taxpayer holding company is a "shell corporation" created entirely for the purpose of allowing taxpayer holding company to obtain advantageous "single asset" financing.

In the audit of the two entities, it was determined that taxpayer holding company was a "non-filer" receiving Indiana source income. Therefore, the audit determined that taxpayer holding company was subject to the state's corporate income tax scheme and assessed taxes accordingly.

Both entities submitted a joint protest of the audit's determinations. An administrative hearing was held, and this Letter of Findings follows.

DISCUSSION

I. Taxpayer Holding Company Acting in an Agency Capacity – Gross Income Tax

Taxpayer holding company owns property in Indiana which is used by taxpayer operating company in its restaurant businesses. Taxpayer holding company receives income from personal property through a reimbursement of depreciation expense on that personal property. For example, taxpayer holding company may hold $1,000 in personal property located within the state. At the end of the year, if the property depreciates in value to $900, a "book" transfer of $100 is made to taxpayer holding company's side of the general ledger to compensate for that depreciation.

In addition, the audit determined that taxpayer holding company receives lease income on certain of the real property located within the state.

During the 1996 tax year, taxpayer holding company sold two of its Indiana real properties. The audit held that the proceeds from the sale of this real property constituted taxable gross income.

Taxpayer holding company maintains that it did not have Indiana gross income separately identifiable from the gross income of taxpayer operating company because taxpayer holding company is simply a "shell" corporation having no separate identity outside that of taxpayer operating company.

Both taxpayers have the identical officers and directors. Taxpayer holding company does not maintain a separate general ledger or other separate books of account. Taxpayer holding company does not have a separate bank account, maintains no separate cash reserve, no accounts receivable, and no trade payables. Taxpayer holding company's financial statement is derived from the taxpayer operating company's general ledger and is prepared in order to fulfill its federal and state tax obligations. Taxpayer holding company does not have any employees.

Essentially, taxpayer holding company maintains that it is an agent for taxpayer operating company.

Indiana imposes a gross income tax upon the entire gross receipts of a taxpayer who is a resident or domiciliary of Indiana. IC 6-2.1-2-2(a)(1). For the taxpayer who is not a resident or domiciliary of Indian – such as taxpayer holding company – the tax is imposed on the gross receipts which are derived from business activities conducted within the state. IC 6-2.1-2-2(a)(2).

However, 45 IAC 1-1-54 exempts that portion of a taxpayer's income which the taxpayer receives while acting in an agency capacity. The regulation states:

Taxpayers are not subject to gross income tax on income they receive in an agency capacity. However, before a taxpayer may deduct such income in computing his taxable gross receipts, he must meet two (2) requirements:

(1) The taxpayer must be a true agent. Agency is a relationship which results from the manifestation of consent by one person to another authorizing the other to act on his behalf and subject to his complete control, and consent by the other to so act. Agency may be established by oral or written contract, or may be implied from the conduct of the parties. However, the representation of one party that he is an agent of another without a manifestation of consent by the alleged principal is insufficient to establish an agency. Both parties must intend to act in such a relationship.

Characteristic of agency is the principal's right to complete and continuous control over the acts of the agent throughout the entire performance of the contract. This right to control cannot be limited to the accomplishment of a desired result. In addition, the principal must be liable for the authorized acts of the agent.

(2) The agent must have no right, title, or interest in the money or property received or transferred as an agent. In other words, the income received for work done or services performed on behalf of a principal must pass intact to the principal or a third party; the agent is merely a conduit though which the funds pass. A contractual relationship whereby one person incurs expense under an agreement to be reimbursed by another is not an agency relationship unless the other elements of agency exist, particularly the element of control discussed above. Where tangible personal property is purchased by an agent for a principal, title need not vest immediately in the principal in order for the agent's reimbursement to be deductible if there is an agreement between the parties authorizing one to purchase on behalf of other. However, income derived from sales by the principal and subsequent resale by the agent to customer is subject to gross income tax.

The Indiana Tax Court in Policy Management Systems Corp. v Indiana Department of State Revenue, 720 N.E.2d 20 (Ind. Tax Ct. 1999) and Universal Group Limited v. Indiana Department of State Revenue, 642 N.E.2d 553 (Ind. Tax Ct. 1994) reviewed the relationship between the imposition of the state's gross income tax and agency principles, echoed the regulatory standards set out in 45 IAC 1-1-54, and found that an agency relationship required consent by the principal, acceptance and authority by the agent, and control of the agent by the principal.

Taxpayer holding company does not elude the otherwise inclusive language of IC 6-2.1-2-2(a)(2) because it is not standing in a true agency relationship with taxpayer operating company. Both taxpayers regard the book entries in favor of taxpayer holding company as a mere technical and wholly transparent transfer of funds designed simply to serve the mutually beneficial interest of both parties. Taxpayers may be correct in that initial assertion; nonetheless, the parties' relationship does not possess the hallmarks of a true agency relationship because taxpayers mistakenly equate transparency with agency.

An agency relationship is marked by linear transactions between third-party, agent, and principal whereby the agent acts merely as the conduit between the third-party and principal because the agent is, at all times, under the control of the principal and because the agent never has any beneficial interest in the transactions. The circular relationship between taxpayer holding company and taxpayer operating company is not that of agent and principal because "[t]o be outside the gross income tax, there must be both agency and *pass through*, actual or substantive." Universal Group, 642 N.E.2d at 557 (*Emphasis added*).

Taxpayers' argument also fails by virtue of the language contained in 45 IAC 1-1-54(2) which states that "[t]he agent must have no right, title, or interest in the money or property received or transferred as an agent." The cases interpreting that provision have consistently held that "reimbursements of a taxpayer's own expenses are receipts of gross income to the taxpayer." Universal Group Ltd v. Indiana Department of Revenue, 609 N.E.2d 48, 54 (Ind. Tax. Ct. 1993); Policy Management, 720 N.E.2d at 23.

Taxpayer holding company was reimbursed for the depreciation expense it incurred on personal property it owned in Indiana. Although those reimbursements may have consisted of nothing more than "book entries," nonetheless, the reimbursements were intended to compensate taxpayer holding company for its *own* depreciation expenses and not the expenses incurred by taxpayer operating company.

In addition, taxpayer holding company received rental income from real property held within the state. Taxpayer holding company received that rental income by virtue of the fact that it – not taxpayer operating company – owned the real property. If taxpayer operating company owned the real property and taxpayer holding company was merely a disinterested agent collecting rents on behalf of taxpayer operating company, taxpayers' argument would have merit. Such is not the case, and taxpayers' argument must fail.

In addition, taxpayer holding company sold certain of its real property during 1996. The income attributable to the sale of the real property was, for purposes of the gross income tax, directly attributable to taxpayer holding company. The real property did not belong to taxpayer operating company. Taxpayer holding company was not merely acting as a disinterested agent on behalf of taxpayer operating company when it sold the property. Again, taxpayers' agency argument fails.

FINDING

Taxpayer's protest is respectfully denied.

II. Sale of Real Property – Deduction for Encumbrance Secured by the Real Property

The audit determined that taxpayer holding company sold two of its Indiana properties during 1996. The gross receipts from the sale of those assets were included for gross income tax purposes. The audit did not allow a deduction for payment of outstanding debt on the property because "no documentation was provided showing this allocated debt was a mortgage on the sold property."

Taxpayer holding company argues that the proceeds from the sale of the Indiana real property should be reduced by the amount used to "pay down" the encumbrances on that real property. To that end, taxpayer holding company has provided documentation which it maintains is sufficient to justify the deduction.

IC 6-2.1-3-16 exempts certain proceeds from the sale real property from gross income tax.

(a) Except as provided in subsection (b), amounts received from sales of real estate are exempt from gross income tax to the extent of any mortgage or similar encumbrance that exists on the real estate at the time of its sale.

(b) The exemption provided by this section does not apply to any mortgage or encumbrance created for the purpose of avoiding gross income tax liability.

The regulation, 45 IAC 1-1-110 restates the same principal:

Real Property Sales: Gross income tax is imposed at the higher rate on the proceeds from the sale of an interest in real estate. In computing the proceeds from real estate sales for gross income tax purposes, the value of any mortgage (unless created for the purpose of avoiding the tax) may be deducted.

The regulations provided that it is not necessary that the entire encumbrance be paid. However, the exemption is then limited to the percentage that the cost of the real estate sold bears to the total cost of all the real estate covered. Specifically, 45 IAC 1-1-147 provides as follows:

Mortgages on Real Estate. Mortgages and similar encumbrances existing upon real estate at the time of its sale are not part of the taxable consideration derived from the sale. This is true whether or not the encumbrance is paid off upon sale, is assumed by the purchaser, or the property is transferred subject to the encumbrance. The deduction under this section of the Act *[IC 6-2.1]* is limited to the principal amount of the mortgage and not the interest thereof.

Although the taxpayer may meet all the preceding qualifications, nonetheless, "Mortgages and encumbrances created upon real estate for the purpose of avoiding gross income tax are not excluded from taxation." 45 IAC 1-1-148.

In 1993 taxpayer operating company borrowed a substantial sum described by the parties as "Senior Notes." These Senior Notes were secured by all of taxpayer operating company's assets and by all of taxpayer holding company's assets. In addition, both taxpayer operating company and taxpayer holding company guaranteed the Senior Notes and collateralized that guarantee with all of taxpayer holding company and taxpayer operating company's assets. The assets used to secure the Senior Notes included the Indiana real properties sold in 1996.

Taxpayers have provided a copy of the original 1993 Offering Memorandum. This document indicates that the Senior Notes would be secured by "substantially all of the assets of [taxpayer operating company] and [taxpayer holding company]." The 1993 Offering Memorandum restricted the ability of taxpayer operating company and taxpayer holding company to sell any of their assets. The Offering Memorandum required that any proceeds from the sale of taxpayer operating company and taxpayer holding company's assets would be used to repurchase the Senior Notes *unless* those proceeds were used to reinvest in similar assets. In such an instance, those "similar assets" would become substitute collateral for the Senior Notes.

Taxpayers have provided a copy of their "Report of Independent Public Accountants" for the year ending December 27, 1993 and dated March 2, 1994. Information regarding the Senior Notes is found on page F-11 of that report. The report states that, "Substantially all assets of the [taxpayer operating company] are pledged to its senior lenders. In addition, the [taxpayer holding company has] guaranteed the indebtedness owed by the [taxpayer operating company] and such guarantee is secured by substantially all of the assets of the [taxpayer holding company]."

In 1996, taxpayer operating company and taxpayer holding company completed a sale/leaseback transaction which included the Indiana real properties. Of the total amount derived from that transaction, approximately 66 percent was used to repay the principal on the Senior Notes. Taxpayers have provided documentation regarding the properties sold, substantiating the sales prices of the properties, and describing the manner in which proceeds were distributed.

Taxpayers have met its burden of proof – imposed under IC 6-8.1-5-1(b) – of demonstrating that they are entitled to claim the gross income tax deduction provided in IC 6-2.1-3-16. The Senior Notes were secured by taxpayer operating company and taxpayer holding company's assets. Those assets included the Indiana real estate sold during the 1996 tax year. In the event of a default on the Senior Notes, the lender had the right to seize the Indiana real estate. A verifiable portion of the proceeds from the sale of the Indiana real estate was used to repay the principal on the Senior Notes. Finally, there is no indication that either taxpayer entered into the Senior Note agreement for the purpose of avoiding the state's gross income tax.

FINDING

Taxpayer's protest is sustained.

III. Abatement of the Ten Percent Negligence Penalty

Taxpayer maintains it is entitled to abatement of the ten percent negligence penalty assessed at the time of the original audit.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer argues that it had a reasonable basis for concluding that taxpayer holding company's revenues were not subject to the state's gross income tax. In addition, taxpayer asserts that it timely, fully, and accurately reported the financial activities relating to the relationship between taxpayer operating company and taxpayer holding company.

Taxpayer has met its burden of demonstrating that its failure to pay the gross income tax deficiency was based upon "reasonable cause and not due to willful neglect." IC 6-8.1-10-2.1(d).

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0220010254.LOF

LETTER OF FINDINGS NUMBER: 01-0254
Adjusted Gross and Supplemental Net Income Tax
For the Years Ending 1995 through 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Adjusted Gross and SNIT – Unrelated Business Income

Authority: IC 35-45-5-3; IC 6-2.5-5-25; IC 6-2.1-3-23; IC 6-3-2-3.1(a); IC 6-3-1-17(a); 45 IAC 3.1-1-68; IC 35-45-5-3

The taxpayer protests the imposition of adjusted gross and supplemental net income tax on proceeds from illegal gambling machines.

Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-1 & 2

The taxpayer protests the Department's imposition of the ten percent (10%) negligence penalty.

STATEMENT OF FACTS

As a result of an income tax audit conducted by the Department of Revenue, illegal gambling machines were discovered at the taxpayer's location.

Adjusted Gross and SNIT – Unrelated Business Income

DISCUSSION

Under Indiana Code section 35-45-5-3 the machines operated in taxpayer's establishment constitute illegal gambling. Proceeds from illegal gambling are considered unrelated business income and subject to Indiana gross or adjusted gross and supplemental net income tax. Indiana State Police estimate that the amount of gross income from illegal gambling machines is approximately $104,000 per year for a single machine. However, the Department chose to use the figures provided by the organization.

First, the taxpayer contends that the machines are not illegal and are used primarily in raising money for charitable purposes. At hearing, the taxpayer stated that the money raised from the machines helped supplement their bar operation. However, using any of the money to supplement their bar operation is not a charitable purpose. Second, taxpayer protests the imposition of gross, adjusted gross, and supplemental net income tax on proceeds from the machines. The taxpayer states that the proceeds from the machines, which was included on their federal return as exempt income, could be characterized as a casualty loss and therefore excluded from tax since the money at issue was allegedly stolen by a former member of the organization. Third, the taxpayer states that the amount of money attributable to the machines was significantly less according to their records. Finally, the taxpayer argues that their Quartermaster stole approximately $109,000 during a period of one and a half years. This money includes income from the gambling machines.

IC 35-45-5-3 provides in pertinent part:

> A person who knowingly or intentionally: … (3) maintains, in a place accessible to the public slot machines, one-ball machines or variants thereof… commits professional gambling, a Class D felony.

The Department determined that illegal gambling by the taxpayer was unrelated to taxpayer's exempt purpose. Exemption from tax for exempt organizations is tied to the gross income tax provisions with respect to exempt organizations. IC 6-2.5-5-25. As provided under IC 6-2.1-3-23, exempt organizations are not entitled to exemption from gross income received by a taxpayer that

is derived from an unrelated trade or business, as defined in Section 513 of the Internal Revenue Code. Thus, the Department's determination was guided by I.R.C. § 513, which provides, in part, the following:

> …The term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Pursuant to IC 6-3-2-3.1(a) and IC 6-3-1-17(a), the Indiana General Assembly has expressly adopted the Code's tax treatment, with respect to Code section 501(c) organizations, for purposes of the Indiana adjusted gross and supplemental income tax analysis. Moreover, the Department's rule 45 IAC 3.1-1-68 defines an unrelated trade or business under the same guidelines as Code section 513, and the rule also subjects any unrelated business income to the Indiana taxes. Additionally, the rule cites taxpayers to Code sections 511 through 515 for guidance in determining whether income is subject to the taxes.

The taxpayer, in support of its protest, provided financial reports for the years ending 1997, 1998, and 1999. These records consist of financial statement compiled by Accounting Data Corporation. The financials allegedly show the following amounts for the gaming machines: 1997 / $71,628; 1998 / $97,453; and 1999 / $30. The taxpayer's accountant stated in hearing, that the amounts received from the gaming machines was reported on their federal return as exempt income. The taxpayer states that they did report all the income they received and that they had only characterized it as exempt. In other words, they accounted for all income received and were not trying to deceive the Department.

The taxpayer also provided victim's statement filed April 13, 2001 in Vigo Superior Court. The Post Commander states under oath, "The biggest theft was from our machines, which he would empty at 1:00am to 2:00am when nobody was present in the building. Several hundred dollars went through those machines every day. He was the only one who had access to the machines or whose responsibility it was to take the money therefrom and put it in our account at the bank…." The amount of money attributable to the gambling machines in taxpayer's statement does not comport with the numbers provided by their accountant.

FINDING

The taxpayer's protest is denied in part and sustained in part. The taxpayer's protest regarding the taxability of gaming proceeds is denied. The taxpayer's protest is denied as to the amount of income attributable to the illegal gambling machines. However, the Department will allow the casualty loss as a deduction in calculating unrelated adjusted gross income.

II. Tax Administration – Liability for 10% Negligence Penalty

DISCUSSION

The taxpayer protests the Department's imposition of the ten percent (10%) penalty assessment. Indiana Code section 6-8.1-10-2.1 requires a ten percent (10%) penalty to be imposed if the tax deficiency is due to the negligence of the taxpayer. Department regulation 45 IAC 15-11-2 provides guidance in determining if the taxpayer was negligent. 45 IAC 15-11-1(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is also to be determined on a case-by-case basis according to the facts and circumstances of each taxpayer.

Subsection (d) of IC 6-8.1-10-2.1 allows the penalty to be waived upon a showing that the failure to pay the deficiency was due to reasonable cause. Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish reasonable cause, the taxpayer must show that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

In this instance, the taxpayer has shown reasonable cause. The taxpayer has provided to the Department's satisfaction, sufficient justification for interpreting the code as it did.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420020027.LOF

LETTER OF FINDINGS NUMBER: 02-0027
Sales/Use Tax
For the Tax Periods: 1998, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax – Best Information Available

Authority: IC 6-2.5-3-2, IC 6-8.1-5-4, IC 6-8.1-5-1

The Taxpayer protests the Department's assessment of use tax based on incomplete records.

STATEMENT OF FACTS

Taxpayer was audited for the calendar years of 1998 and 1999 for sales and use tax. Taxpayer owns and leases towers and related antennas to radio station, cellular telephone companies, and private businesses and industries. Taxpayer was a registered retail merchant for the entire period of the audit. Taxpayer did not file returns for the audit for periods January 1, 1998 through June 30, 1999. More facts supplied as necessary.

I. Use Tax – Best Information Available

DISCUSSION

Taxpayer was assessed use tax on purchases for parts of the tower as well as certain purchases charged to utilities account with no invoices to show tax charged and paid on utilities consumed.

"An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." IC 6-2.5-3-2.

Taxpayer claims that the business records were destroyed in a fire in November 1999 which occurred at one of the Taxpayer's other businesses. The fire was verified. Taxpayer also states that all utilities were purchased in Indiana and sales tax was paid. Taxpayer notes that this could be determined by referring back to a previous audit.

IC 6-8.1-5-4 states

(a) Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

In addition, IC 6-8.1-5-1 states in part:

(a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department…

"The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made" *Id*. Here, the auditor used the information that was available to him in an attempt to reconstruct the business activities in the periods assessed. While Taxpayer asserts that the auditor did not work with them under the circumstances, Taxpayer ultimately has the duty to maintain his business records. Taxpayer has not demonstrated that they took any significant steps in reacquiring copies of the lost records. Nor, have they provided any evidence of the timely filing of returns associated with sales/use tax based on the missing records which were in their possession prior to the fire.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

4220020046.LOF

LETTER OF FINDINGS NUMBER: 02-0046
International Fuel Tax Agreement (IFTA)
For the Tax Periods of 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. IFTA – Sufficiency of Documentation

Authority: IFTA, R1010, IFTA, R1210, IFTA, P510, IFTA P520.100, IFTA. P530.100, IFTA, P650.100, IFTA A550.200

The Taxpayer protests the IFTA audit assessment resulting from Taxpayer's missing fuel tickets.

FACTS

Taxpayer was assessed tax as a result of an IFTA audit covering the periods of 1998 through 2000. The assessments resulted after the auditor determined that Taxpayer did not maintain fuel tickets to verify fuel purchased. More facts provided as necessary.

DISCUSSION

The department, representing a member jurisdiction of IFTA, requested taxpayer records pursuant to IFTA, P510:

The licensee is required to preserve the records upon which the quarterly tax return is based for four years from the return due date or filing date, whichever is later, plus any time period included as a result of waivers or jeopardy assessments

IFTA P520.100 states: "Records shall be made available upon request by any member jurisdiction and shall be available for audit during normal business hours." Also, pursuant to IFTA, P530.100:

Failure to maintain records upon which the licensee's true liability may be determined or to make records available upon proper request may result in an assessment as stated in IFTA Articles of Agreement Section R1200.

In the event the licensee fails to make records available or fails to maintain records from which the true liability may be determined, the base jurisdiction may determine the tax liability of the licensee on the basis of the best information available to it. IFTA, R1210.

Here, Taxpayer states that many of the fuel tickets were inadvertently thrown away.

"The retail purchase of fuel which is placed into the fuel tank of a qualified motor vehicle, and upon which tax has been paid to a jurisdiction, shall qualify as a tax-paid retail fuel purchase." IFTA, R1010.100. However, IFTA, P650.100 states:

[r]etail purchases must be supported by a receipt or invoice, credit card receipt, automated vendor generated invoice or transaction listing, or microfilm/microfiche of the receipt or invoice. Receipts that have been altered or indicate erasures are not accepted for tax-paid credits unless the licensee can demonstrate the receipt is valid.

Also, IFTA A550.200 states: "[w]hen tax paid fuel documentation is unavailable, all claims for tax paid fuel will be disallowed".

Taxpayer requests that a "complete quarter" with regards to his records be used for each of the years audited and projected to the remaining quarters. However, IFTA, P650.100 and IFTA A550.200 clearly limits credits to situations where tax paid fuel documentation is provided.

FINDING

The Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

4620020047.LOF

LETTER OF FINDINGS NUMBER: 02-0047
Single State Registration System (SSRS)
For the Tax Periods of 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. SSRS – Inclusion of Trip Lessors

Authority: 49 USCS §14504, IC 8-2.1-20-7, IC 8-2.1-17-10

The Registrant protests the audit assessments which include trip lessors in the calculation of fees due for the Single State Registration System (SSRS).

FACTS

Registrant is trucking company located in Indiana that was assessed during an audit for the Single State Registration Plan. The audit determined that Registrant failed to include trip lease vehicles and short term lease vehicles in the number of vehicles it actually registered. A trip lease occurs when a party grants the use of his or her equipment and/or services to the motor carrier on a trip by trip basis. More facts provided as necessary.

DISCUSSION

IC 8-2.1-20-7 states:

Before operating a motor vehicle on the public highways of this state in the interstate transportation of property or passengers, the person who operates the motor vehicle must register under the single state registration system established under 49 U.S.C. 11506.

49 USCS §14504 states in part:

…

(b) General Rule.- The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

(c) Single State registration system.

(1) In general. The Secretary shall maintain standard for implementing a system under which-

(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

(B) the State of registration shall fully comply with standards prescribed under this section; and
(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

….

49 USCS §14504 (c)(2)(B)(iv)(I) goes on to state the fee system "is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates." IC 8-2.1-17-10 defines a motor carrier as "a common carrier, contract carrier, or carrier certified in accordance with rules adopted by the department under IC 4-22-2."

While Registrant concedes that some of the trucks were not registered in some states, he contends that the auditor's assessment was inflated. Taxpayer states that trip lessors were improperly included in the assessment.

However, 49 USCS §14504 does not distinguish trip lessors from other vehicles the carrier operates. Trip lessors, are operated by the carrier during their lease and while Registrant does not own the vehicles in question, the trip lessors are acting for the motor carrier. Thus, they are considered to be operated by the Registrant pursuant to 49 USCS §14504.

FINDING

The Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020105.LOF

LETTER OF FINDINGS NUMBER: 02-0105
Sales/Use Tax
For the Tax Periods: 1998, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax – Best Information Available

Authority: IC 6-2.5-3-2, IC 6-8.1-5-4, IC 6-8.1-5-1

The Taxpayer protests the Department's assessment of use tax based on incomplete records.

STATEMENT OF FACTS

Taxpayer was audited for the calendar years of 1998 and 1999 for sales and use tax. Taxpayer is primarily a retailer and provides service for two-way radio communications equipment. Taxpayer sells and leases two-way radio equipment and related accessories. Taxpayer also became a registered Indiana motor vehicle dealer in 1994. Taxpayer protests the assessment of use tax made based on a best information available basis. A fire occurred at one of Taxpayer's business in November 1999 where Taxpayer maintains business records were stored. More facts supplied as necessary.

I. Use Tax – Best Information Available

DISCUSSION

Audit assessed use tax on outside services based on cash disbursement records available and with estimates for missing months. The auditor notes that only one year of disbursements was provided. "An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." IC 6-2.5-3-2.

Taxpayer claims that the business records were destroyed in a fire in November 1999 which occurred at one of the Taxpayer's other businesses. The auditor verified the occurrence of a fire.

IC 6-8.1-5-4 states

(a) Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer argues that the auditor was told at the outset of the lack of records and that the auditor made no attempt to examine check registers (all of which he claims were provided) and discuss these with the accountant. Taxpayer goes on to state that there was no statement by the auditor of what was taxable after the auditor reviewed the registers. Although Taxpayer concedes it is burdensome, they should have had an opportunity based on the circumstances to discuss the assessments and disbursement records with the auditor upon completion of the audit.

IC 6-8.1-5-1 states in part:

(a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department…

Also, "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made" *Id*. Under the circumstances, there is nothing to show that the auditor acted unreasonably. The auditor used the information that was available to him in an attempt to reconstruct the business activities in the periods assessed.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020205.LOF

LETTER OF FINDINGS NUMBER: 02-0205
State Individual Income Tax
For the Tax Years 1997, 1998, and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Statute of Limitations on Issuance of Proposed Assessment – Individual Adjusted Gross Income Tax

Authority: IC 6-8.1-5-2(a); IC 6-8.1-5-2(b)

Taxpayers argue that the Department was without authority to issue a proposed assessment of additional individual adjusted gross income taxes for the year 1997.

II. Assessment of Additional Individual Income Taxes on Taxpayers' Receipt of "S Corporation" Distributions

Authority: IC 6-8.1-5(b); I.R.C. § 1363(a)

Taxpayers maintain that the Department of Revenue (Department) erred in calculating their taxable income attributable to distributions of income received from their S Corporation.

STATEMENT OF FACTS

Taxpayers are the owners and officers of an Indiana S Corporation. In 2000, the state Board of Accounts conducted an audit of the taxpayers' S Corporation. Within the subsequently published report, the audit made note of certain disbursements to the taxpayers. As a result of that report, the Department conducted a desk examination of the taxpayers' Indiana individual income tax returns for 1997, 1998, and 1999. The Department concluded that taxpayers had failed to report certain income derived from the S Corporation. Consequently, the Department issued taxpayers notices of "Proposed Assessment." The taxpayers submitted a protest questioning the validity of the 1997 assessment and the accuracy of the 1997 through 1999 assessments. An administrative hearing was held, and this Letter of Findings followed.

DISCUSSION

I. Statute of Limitations on Issuance of Proposed Assessment – Individual Adjusted Gross Income Tax

Taxpayers argue that the Department was without authority to assess additional taxes on the taxpayer's 1997 income. The Department's notice of Proposed Assessment, for the additional 1997 taxes, was issued on February 4, 2002.

The Department's authority to propose an assessment of additional taxes is constrained by IC 6-8.1-5-2, which reads as follows:

> Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or any of the following:
>
> (1) the due date of the return.... (IC 6-8.1-5-2(a)).

The due date of the taxpayer's 1997 return was April 15, 1998. Therefore, under IC 6-8.1-5-2(a), the latest date on which the Department was authorized to issue the notice of proposed assessment was April 15, 2001.

However, under certain circumstances, the Department's authority to issue notices of Proposed Assessment extends past the three-year limitation. In relevant part, IC 6-8.1-5-2(b) states:

> If a person files an adjusted gross income tax (IC 6-3)... return that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent (25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

For the 1997 tax year, the Department notice of Proposed Assessment constituted an assertion that taxpayers had underpaid their 1997 taxes by approximately 33 percent. Having made that determination, the Department was authorized to issue the notice of Proposed Assessment for the 1997 tax year before April 15, 2004.

FINDING

Taxpayer's protest is respectfully denied.

II. Assessment of Additional Individual Income Taxes on Taxpayers' Receipt of "S Corporation" Distributions

A desk examination of taxpayers' 1997, 1998, and 1999 individual income tax returns concluded that taxpayers had failed to report certain income derived from their wholly owned S Corporation. Generally, an S Corporation pays no tax. I.R.C. § 1363(a). Instead, the S Corporation's income is passed through to the individual shareholders.

An examination of the taxpayers' Indiana IT-40 individual income tax returns, federal individual income tax returns, and federal S Corporation returns indicates that taxpayers reported and paid taxes on all income received from taxpayers' S Corporation. The desk audit erred when it concluded that the subsequent distributions from that income were subject to the individual income tax. Generally, distributions of S Corporations are not taxed because the amounts involved were taxed previously when the income was first earned.

Taxpayers have met their burden of proof, imposed under IC 6-8.1-5(b), of demonstrating that the proposed assessments are wrong.

FINDING

Taxpayers' protest is sustained.

DEPARTMENT OF STATE REVENUE

0320020252P.LOF

LETTER OF FINDINGS NUMBER: 02-0252P
Withholding Tax
For the Period January 1999 through December 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a general surgeon and was assessed a penalty for filing its withholding tax returns late. In a fax dated May 14, 2002, taxpayer states that it started business in 1997 and hired an experienced office manager and a CPA firm to manage the business aspects. The office manager lacked a number of business-related skills and the CPA firm failed to assign a new accountant to the surgeon's business.

Taxpayer states it caught its own error and filed the returns. In reviewing the taxpayer's account, however, the department finds that BIA billings were issued on September 6, 2000 and the missing returns were not filed until March 17, 2001. Taxpayer requests a penalty waiver.

I. Tax Administration – Penalty

DISCUSSION

At hearing, taxpayer's representative states that the IRS waived the penalty and the taxpayer found the outstanding liabilities, not the Department. Records, however, indicate that the Department billed BIA for 1999 on September 6, 2000 and the missing returns were not filed until March 17, 2001. The late payment and filing incurred a penalty at ten percent (10%) of the tax due. Taxpayer states that it advised the department that it owed payroll taxes for the year 1999 and submitted $22,431.34 with its letter dated March 2, 2001. Taxpayer further states that the IRS waived all late payment and late filing penalties for reasonable cause. Taxpayer requests a penalty waiver because it relied upon its office manager and CPA to correctly prepare and remit taxes due.

Taxpayer's failure to file the return and remit the tax timely was not the result of reasonable cause. Taxpayer is responsible for the actions of its employees and persons he hires to assume responsibilities.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

2820020257.LOF

LETTER OF FINDINGS NUMBER: 02-0257
Controlled Substance Excise Tax
For Tax Periods: 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of

publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Controlled Substance Excise Tax – Imposition

Authority: IC 6-7-3-5

The taxpayer protests the assessment of controlled substance excise tax.

STATEMENT OF FACTS

The taxpayer was a registered nurse working at a hospital. During August and September of 2001, the taxpayer withdrew several doses of morphine, meperidine, hydrocodone, and temazepam from the hospital's Pyxis machine. The taxpayer was arrested for possession of controlled substances. On October 17, 2001, the taxpayer's county prosecutor indicated by letter to the Indiana Department of Revenue, hereinafter the "department," that there would be no criminal prosecution. The prosecutor also requested that the department investigate the possibility of assessing the controlled substance excise tax. The department issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on March 26, 2002 in a base tax amount of $9,240.00. The taxpayer protested the assessment requesting a reduction in the amount assessed. A hearing was held. Further facts will be provided as necessary.

Controlled Substance Excise Tax – Imposition

DISCUSSION

IC 6-7-3-5 imposes the controlled substance excise tax on the possession of Schedule II controlled substances. The taxpayer admits that he withdrew the controlled substances on which the tax was assessed from the hospital's Pyxis machine and ingested them. This possession of the controlled substances is subject to the controlled substance excise tax. The department has no basis to reduce the amount due.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020262.LOF

LETTER OF FINDINGS NUMBER: 02-0262
Income Tax
For the Years 1998 Through 2000

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Income Tax – Unrelated Business Income Tax

Authority: IC 6-8.1-3-1(a); IC 6-8.1-1-1; IC 6-8.1-5-1(a); IC 6-8.1-5-1(b); 45 IAC 15-2-1; 45 IAC 15-5-1; IC 6-2.5-5-25; IC 6-2.1-3-23; IC 6-3-2-3.1(a); IC 6-3-1-17(a); 45 IAC 3.1-1-68; IC 4-32-9-2; IC 4-32-9-17; IRC Sec. 513

Taxpayer protests the Department's assessment of Unrelated Business Income Tax.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10; 45 IAC 15-11-2

STATEMENT OF FACTS

The Indiana Department of Revenue Criminal Investigation Division initiated an investigation of the taxpayer. The Department's investigation report determined that they had conducted the sale of punchboards, pulltabs, and tipboards without a license from December 1, 1997 to November 30, 2000 in violation of IC 4-32-9-2.

I. Income Tax – Unrelated Business Income Tax

DISCUSSION

The Department's investigation report determined that the taxpayer conducted the sale of punchboards, pulltabs, and tipboards without a license from December 1, 1997 to November 30, 2000 in violation of IC 4-32-9-2. The taxpayer also failed to maintain any records in violation of IC 4-32-9-17. The Department determined that activities of taxpayer were unrelated to taxpayer's exempt purpose. Exemption from tax for exempt organizations is tied to the gross income tax provisions with respect to exempt organizations (See IC 6-2.5-5-25). As provided under IC 6-2.1-3-23, exempt organizations are not entitled to exemption from gross income received by a taxpayer that is derived from an unrelated trade or business, as defined in Section 513 of the Internal Revenue Code. Thus, the Department's determination was guided by I.R.C. § 513, which provides, in part, the following:

…The term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Pursuant to IC 6-3-2-3.1(a) and IC 6-3-1-17(a), the Indiana General Assembly has expressly adopted the Code's tax treatment, with respect to Code section 501(c) organizations, for purposes of the Indiana adjusted gross and supplemental income tax analysis. Moreover, the Department's rule 45 IAC 3.1-1-68 defines an unrelated trade or business under the same guidelines as Code section 513, and the rule also subjects any unrelated business income to the Indiana taxes. Additionally, the rule cites taxpayers to Code sections 511 through 515 for guidance in determining whether income is subject to the taxes. The Department in assessing unrelated business income tax reviewed the records of distributors of charity gaming supplies and determined the amount of games purchased for the periods involved. The taxpayer was assessed for the periods May 1, 1997 to April 30, 1998; May 1, 1998 to April 30, 1999; and May 1, 1999 to April 30, 2000. The amount of tax assessed was $941.69, $919.37, and $1,534.27 respectively. At hearing, the taxpayer stated that they did not agree with the amounts assessed. The Department reviewed the billings and determined that the unrelated business income tax calculations were in fact incorrect. The actual amounts should have been $432, $591, and $826. The Department will make the appropriate adjustments.

Pursuant to IC 6-8.1-3-1(a), the Department "has the primary responsibility for the administration, collection, and enforcement of the listed taxes,"(IC 6-8.1-1-1). Under 45 IAC 15-2-1, the Department was established for the purpose of administering, collecting and enforcing all taxes placed under its authority." Pursuant to IC 6-8.1-5-1(a), the Department "shall make a proposed assessment of the amount of the unpaid tax" when an audit discovers a failure to remit tax. *See also*, 45 IAC 15-5-1. Under IC 6-8.1-5-1(b), the "notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with" taxpayer.

At hearing, the taxpayer's Attorney stipulated that they did operate charity gaming for a period of three (3) years without a charity game license. Taxpayer alleged that their former Administrator, is responsible for the failure to obtain a gaming license from the Department. Taxpayer contends that their Administrator also embezzled all gaming monies. One of taxpayer's current officers stated, "I kind of blame the officers for part of this because they didn't check…" The taxpayer did not contact any law enforcement agency regarding the allegedly stolen money. When taxpayer was asked about whether they reported the money missing, "We were told that we should just report it to [their parent organization] and they'd take it to their bonding company." As a result of the organization being deceived by one of its members, the taxpayer argues that it should be allowed to file its past gaming applications retroactively, and pay a one dollar ($1.00) civil penalty for each year's violation, thus eliminating all but three dollars ($3.00) of the civil penalties imposed by the Department and also any related tax implications. Petitioner also argues that it should only be required to pay a $1.00 fine for its failure to keep accurate records.

IC 4-32-1-1 and the following statutes contain no provision for retroactively filing charity gaming applications. Assuming for the sake of argument, the taxpayer was allowed to file the forms retroactively, they still failed to account for any of the income received from gambling or file the appropriate forms as is required of all organizations conducting charity gaming.

FINDING

Taxpayer's protest is denied. However, the amount of tax due for the fiscal years 1998, 1999, and 2000 will be adjusted pursuant to this Letter of Findings.

II. Tax Administration – Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty. Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC 6-8.1-10. The Indiana Administrative Code at 45 IAC 15-11-2 provides in pertinent part:

(b) "Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

(1) the nature of the tax involved;

(2) judicial precedents set by Indiana courts;

(3) judicial precedents established in jurisdictions outside Indiana;
(4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
(5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case. In this instance, taxpayer was not negligent in its failure to apply for a charity gaming license.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

4220020263.LOF

LETTER OF FINDINGS NUMBER: 02-0263
International Fuel Tax Agreement and
Indiana Motor Carrier Fuel Tax
For the Period 1993–95

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. International Fuel Tax Agreement ("IFTA") – Credits Against Tax – Disallowed Excess Tax-Paid Fuel Credit – Type of Records Required

Tax Administration (Motor Carrier Fuel Tax) – Differences Between IFTA and Motor Carrier Fuel Tax Law – Type of Records Required for Tax-Paid Fuel Credit

Authority: 49 U.S.C. § 31705 (1994 and 2000); IC § 6-6-4.1-6(a)(3) (1993); *State v. Sproles,* 672 N.E.2d 1353 (Ind. 1996); *Dowd v. Grazier,* 116 N.E.2d 108 (Ind. 1953); *State ex rel. Standard Oil Co. v. Review Bd. of Employment Sec. Div.,* 101 N.E.2d 60 (Ind. 1951); *Miami Coal Co. v. Fox,* 176 N.E. 11 (Ind. 1931); *Owner-Operator Indep. Drivers Ass'n v. State Dep't of Revenue,* 725 N.E.2d 891 (Ind. Ct. App.), *reh'g denied, trans. denied mem. sub nom. Indiana Drivers Ass'n v. State,* 741 N.E.2d 1251 (Ind. 2000); *Felix v. Indiana Dep't of State Revenue,* 502 N.E.2d 119 (Ind. Ct. App. 1986); *Indiana Dep't of State Revenue v. Convenient Indus. of Am., Inc.,* 299 N.E.2d 641 (Ind. Ct. App. 1973); *Hi-Way Dispatch, Inc. v. Indiana Dep't of State Revenue,* 756 N.E.2d 587 (Ind. Tax Ct. 2001); *Bethlehem Steel Corp. v. Indiana Dep't of State Revenue,* 597 N.E.2d 1327 (Ind. Tax Ct. 1992), *aff'd* 639 N.E.2d 264 (Ind. 1994)

The taxpayer argues that IC § 6-6-4.1-6(a)(3) (1993), which requires proof of payment of a pump or road tax in order to claim a credit from Indiana motor carrier fuel tax, conflicts with IFTA, which does not impose such a requirement.

II. Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (Federal) – Interstate Commerce Clause

Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (Federal) – Equal Protection Clause

Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (State) – Equal Privileges and Immunities Clause

Authority: U. S. CONST. art. I, § 8, cl. 3 and amend. XIV, § 1; IND. CONST. art. I, § 23 and art. III, § 1; 49 U.S.C. § 31705 (1994 and 2000); *Merrion v. Jicarilla Apache Tribe,* 102 S.Ct. 894 (U.S. 1982); *State v. Sproles,* 672 N.E.2d 1353 (Ind. 1996); *Dowd v. Grazier,* 116 N.E.2d 108 (Ind. 1953); *State ex rel. Standard Oil Co. v. Review Bd. of Employment Sec. Div.,* 101 N.E.2d 60 (Ind. 1951); *Miami Coal Co. v. Fox,* 176 N.E. 11 (Ind. 1931); *Owner-Operator Indep. Drivers Ass'n v. State Dep't of Revenue,* 725 N.E.2d 891 (Ind. Ct. App.), *reh'g denied, trans. denied mem. sub nom. Indiana Drivers Ass'n v. State,* 741 N.E.2d 1251 (Ind. 2000); *L.E. Services, Inc. v. State Lottery Comm'n,* 646 N.E.2d 334 (Ind. Ct. App. 1995); *Felix v. Indiana Dep't of State Revenue,* 502 N.E.2d 119 (Ind. Ct. App. 1986); *Indiana Dep't of State Revenue v. Convenient Indus. of Am., Inc.,* 299 N.E.2d 641 (Ind. Ct. App. 1973); *Hi-Way Dispatch, Inc. v. Indiana Dep't of State Revenue,* 756 N.E.2d 587 (Ind. Tax Ct. 2001); *Bethlehem Steel Corp. v. Indiana Dep't of State Revenue,* 597 N.E.2d 1327 (Ind. Tax Ct. 1992), *aff'd* 639 N.E.2d 264 (Ind. 1994)

In the alternative, the taxpayer contends IC § 6-6-4.1-6(a)(3) violates the dormant Interstate Commerce and Fourteenth Amendment Equal Protection Clauses of the federal constitution and the Equal Privileges and Immunities Clause of the Indiana Constitution.

III. IFTA/Tax Administration – Negligence Penalty

Authority: IFTA arts. IX, § F and XVII, § G (1993); IFTA Procedures Manual art. VI, § A.3 (1993)

Lastly, the taxpayer submits that the Department should waive the negligence penalty assessed against it.

STATEMENT OF FACTS

Throughout calendar years 1993-95 ("the audit period") the taxpayer, an Indiana-chartered corporation, was engaged in the business of a common motor carrier. It held a license from this Department under the International Fuel Tax Agreement (February 1993) (superseded January 1996 effective July 1, 1998, rev. Jan. 2002) (hereinafter "IFTA"). During the audit period the taxpayer

(hereinafter also referred to as "the licensee") operated, among other motor vehicles, a fleet of from between twelve to eighteen diesel-fueled semi-tractors based in Indiana. All of the semi-tractors were "qualified motor vehicles" as IFTA article I, § K (current version at *id*. article I, § R245 (1998)) defined that term, making their fuel consumption subject to IFTA. During the audit period the taxpayer did not maintain any bulk fuel facilities at its principal place of business to fuel these vehicles. It did so exclusively by having its drivers purchase the fuel over the road.

The Department audited the licensee under IFTA for the audit period. The field auditor disallowed the taxpayer Indiana tax-paid fuel credit for any over-the-road fuel purchased in Indiana but consumed in one or more non-IFTA member jurisdictions and for which it did not also pay a pump or road tax to such jurisdiction/s. Lastly, the Department proposed a ten percent negligence penalty. The licensee timely protested the latter two adjustments. The Department will provide additional facts as needed.

I. International Fuel Tax Agreement ("IFTA") – Credits Against Tax – Disallowed Excess Tax-Paid Fuel Credit – Type of Records Required

Tax Administration (Motor Carrier Fuel Tax) – Differences Between IFTA and Motor Carrier Fuel Tax Law – Type of Records Required for Tax-Paid Fuel Credit

DISCUSSION

A. EXHAUSTION OF REMEDIES AND SCOPE OF DEPARTMENT'S REVIEW WHEN A TAXPAYER RAISES CONSTITUTIONAL ISSUES

The licensee has challenged the constitutionality of IC § 6-6-4.1-6(a)(3), under which the auditor disallowed tax-paid fuel credit, on three federal and state grounds. The allegedly violated constitutional provisions are the dormant Interstate Commerce Clause (U.S. CONST. art. I, § 8, cl. 3), the Equal Protection Clause of the Fourteenth Amendment (*id.* amend. XIV, § 1) and the Equal Privileges and Immunities Clause (IND. CONST. art. I, § 23). The taxpayer's challenges under the latter two clauses are essentially one argument, since both the United States Supreme Court and the Indiana courts have held that the rights the two clauses were intended to protect are identical. *See, e.g., State Bd. of Tax Comm'rs v. Jackson,* 51 S.Ct. 540, 545 (U.S. 1931); *Miles v. Department of Treasury,* 199 N.E. 372, 379 (Ind. 1935), citing *inter alia*, *Jackson;* and *Area Interstate Trucking, Inc. v. Indiana Dep't of State Revenue,* 605 N.E.2d 272, 275 (Ind. Tax 1992). The licensee argues that IC § 6-6-4.1-6(a)(3) is unconstitutional on its face under each of these provisions.

The Indiana Supreme Court has held that constitutional analysis is beyond the Department's expertise. *State v. Sproles,* 672 N.E.2d 1353, 1360 (Ind. 1996). Taxpayer claims that a tax statute is unconstitutional on its face in particular are beyond the Department's administrative authority and adjudicative jurisdiction on the additional ground of the Indiana state constitutional doctrine of separation of powers. IND. CONST. art. III, § 1; *Dowd v. Grazier,* 116 N.E.2d 108, 112 (Ind. 1953); *State ex rel. Standard Oil Co. v. Review Bd. of Employment Sec. Div.,* 101 N.E.2d 60, 66 (Ind. 1951).

"The temptation to consider the Indiana [listed taxes] here upon [constitutional] terms, as has been done almost invariably in the past, is like the lure of the siren's song." *Indiana Dep't of State Revenue v. Convenient Indus. of Am., Inc.,* 299 N.E.2d 641, 643 (Ind. Ct. App. 1973), *quoted in Bethlehem Steel Corp. v. Indiana Dep't of State Revenue,* 597 N.E.2d 1327, 1330 (Ind. Tax Ct. 1992) ("*Bethlehem Steel I*"), *aff'd* 639 N.E.2d 264 (Ind. 1994) ("*Bethlehem Steel II*"). However, it is well settled that a taxpayer challenging on constitutional grounds a tax statute that the Department administers or a tax that it has levied nevertheless must make that challenge by exhausting, and may not bypass, its statutory administrative remedies before raising it in the Indiana Tax Court. *Sproles,* 672 N.E.2d at 1361, citing, among other opinions*, Felix v. Indiana Dep't of State Revenue,* 502 N.E.2d 119 (Ind. Ct. App. 1986); *Owner-Operator Indep. Drivers Ass'n v. State Dep't of Revenue,* 725 N.E.2d 891, 893-94 (Ind. Ct. App.) (citing *Sproles*), *reh'g denied, trans. denied mem. sub nom. Indiana Drivers Ass'n v. State,* 741 N.E.2d 1251 (Ind. 2000). As a matter of procedure the present licensee therefore was correct to raise its constitutional issues with the Department initially. The Court of Appeals in *Felix* stated the reasons for the exhaustion requirement as follows:

> [T]he "absolute and indispensible [sic] prerequisite" of [exhausting administrative remedies] "serves to advise the appropriate internal revenue officials of the claims intended to be asserted by the taxpayer, so as to insure an orderly administration of the revenue." *McConnell v. United States* (E.D. Tenn. 1969), 295 F. Supp. 605, 606. Finally, *the requirement of [exhausting administrative remedies] even for a constitutional challenge will afford the Department the opportunity to resolve the matter on nonconstitutional grounds. See Christian v. New York State Department of Labor* (1974), 414 U.S. 614, 622-24, 94 S.Ct. 747, 751-52, 39 L.Ed.2d 38, 45-47. *For example, the Department may determine in an audit that [a taxpayer's] claimed refund is inappropriate for other reasons or that is [sic] allowable under other tax provisions. Weinberger v. Salfi* (1975), 422 U.S. 749, 762, 95 S.Ct. 2457, 2465, 45 L.Ed.2d 522, 537.

502 N.E.2d at 122 (emphases added), approved in *Sproles*, 672 N.E.2d at 1361. The Department interprets the emphasized language as requiring it, whenever possible, to decide any tax protest in which, or any issue in a protest in connection with which, the taxpayer in question has raised constitutional issues on any non-constitutional grounds that taxpayer may also have raised. *Cf. Miami Coal Co. v. Fox,* 176 N.E. 11, 17 (Ind. 1931); *see also Bethlehem Steel I*, 597 N.E.2d at 1339, *aff'd in Bethlehem Steel II*, 639 N.E.2d at 272 (all finding it unnecessary to resolve a constitutional challenge after deciding the case on non-constitutional grounds). However, if the Department cannot successfully resolve a protest on such non-constitutional grounds, or if a taxpayer has not raised any non-constitutional issues, it will only address claims of unconstitutionality to the extent necessary to resolve a protest and only

as applied to the taxpayer and assessment in question. In addition, the Department will do so only to the extent authorized, or at least not precluded, by statute.

Of the licensee's substantive challenges to IC § 6-6-4.1-6(a)(3), the Department will therefore first consider its argument under IFTA, to which it now turns.

B. THE LICENSEE'S IFTA ARGUMENT

IC § 6-6-4.1-6(a)(3) requires proof of payment of a pump or road tax to one or more other jurisdictions in order to claim a credit from Indiana motor carrier fuel tax for fuel purchased in, but consumed outside, Indiana. The taxpayer argues that this statutory requirement violates several provisions of IFTA and the IFTA Procedures Manual (1993). Specifically, the taxpayer contends that IC § 6-6-4.1-6(a)(3) conflicts with IFTA article VII, § B and IFTA Procedures Manual article II. The former provision states that "[n]o member jurisdiction shall require evidence of such purchases beyond what is specified in the IFTA Procedures Manual[,]" *id.*, and the latter contains no provision comparable to that of IC § 6-6-4.1-6(a)(3). The licensee submits that the latter statute also violates IFTA article XIII, § A, which entitles licensees to receive full credit or refund for tax paid on fuel used outside the jurisdiction of purchase, and IFTA Procedures Manual article V, § A.7, which mandates that member jurisdictions to give full credit for such tax-paid purchases. Lastly, the taxpayer argues that IC § 6-6-4.1-6(a)(3) violates IFTA article I, § B, which states that one of the purposes of IFTA is to "promote and encourage the fullest and most efficient possible use of the highway system by making uniform the administration of motor fuels use taxation laws with respect to motor vehicles operated in multiple member jurisdictions." *Id.*

C. IC § 6-6-4.1-6(a)(3), NOT IFTA, GOVERNED ENTITLEMENT TO CREDIT FOR TAX-PAID FUEL CONSUMED IN JURISDICTIONS THAT WERE NOT IFTA MEMBERS.

The law firm representing the present licensee was also counsel of record on appeal in *Hi-Way Dispatch, Inc. v. Indiana Dep't of State Revenue,* 756 N.E.2d 587 (Ind. Tax Ct. 2001), decided while this protest was pending, and in which counsel made much the same arguments. *See id.* at 601-02 (summarizing those arguments). In response, the Indiana Tax Court held in part that IC § 6-6-4.1-6(a)(3), not IFTA, governed a motor carrier taxpayer's entitlement to claim credit for tax-paid fuel consumed in jurisdictions that were not IFTA members. 756 N.E.2d at 602.

The auditor of the present taxpayer, like the auditor of the licensee in *Hi-Way Dispatch,* disallowed tax-paid credit for fuel consumed in jurisdictions that were not IFTA members during the audit period. The holding of *Hi-Way Dispatch* on this subject therefore controls, and the present auditor thus did not err in disallowing the licensee tax-paid credit for such fuel. The Department notes, however, that this particular issue will not recur in audits covering reporting periods beginning after September 30, 1996. With two exceptions not relevant here, Congress has mandated that all states and the District of Columbia conform to IFTA as a condition of their continued ability to require the reporting and payment of fuel taxes after that date. Subsection 4008(g), Motor Carrier Act of 1991 (Title IV of the Intermodal Surface Transportation Efficiency Act of 1991), Pub. L. 102-240, 105 Stat. 1914, 2140 and 2154 (recodified at 49 U.S.C. § 31705 (1994 and 2000).

FINDING

The taxpayer's protest is denied as to this issue.

II. Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (Federal) – Interstate Commerce Clause
Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (Federal) – Equal Protection Clause
Motor Carrier Fuel Tax – Credits Against Tax – Constitutionality (State) – Equal Privileges and Immunities Clause

DISCUSSION

A. THE DEPARTMENT CANNOT CONSIDER THE LICENSEE'S FACIAL CONSTITUTIONAL CHALLENGES TO IC § 6-6-4.1-6(a)(3).

As noted in the Discussion of Issue I above, the present taxpayer contends that IC § 6-6-4.1-6(a)(3) is unconstitutional on its face, rather than as applied to it. The controlling Indiana judicial precedents discussed there thus bar the Department from considering these arguments. *See Sproles,* 672 N.E.2d at 1360; *Grazier,* 116 N.E.2d at 112; and *Standard Oil,* 101 N.E.2d at 66.

B. THE INDIANA TAX COURT HAS ALREADY HELD THAT IC § 6-6-4.1-6(a)(3) DOES NOT VIOLATE THE DORMANT INTERSTATE COMMERCE CLAUSE.

Even if the Department were not precluded from considering the licensee's facial constitutional challenges to IC § 6-6-4.1-6(a)(3), the taxpayer would lose on the merits of its dormant Interstate Commerce Clause attack. The Indiana Tax Court in *Hi-Way Dispatch* ruled in the Department's favor on this issue as well. 756 N.E.2d at 602-05. Moreover, dormant Interstate Commerce Clause arguments will not be available to challenge any provision of IFTA, and this Department will not be able to consider such arguments, in protests of IFTA audits covering reporting periods beginning after September 30, 1996. Congress' mandating state membership in IFTA in subsection 4008(g) of the Motor Carrier Act of 1991, 49 U.S.C. § 31705, was an exercise of its power under, and its existence bars judicial review of any assessment under the dormant, Interstate Commerce Clause. *Merrion v. Jicarilla Apache Tribe,* 102 S.Ct. 894, 910-11 (U.S. 1982), *quoted in L.E. Services, Inc. v. State Lottery Comm'n,* 646 N.E.2d 334, 346 (Ind. Ct. App. 1995).

FINDING

The taxpayer's protest is denied as to this issue.

III. IFTA/Tax Administration – Negligence Penalty

DISCUSSION

Most of the proposed assessment forming the subject of this protest is attributable to underreported miles the licensee's subject commercial motor vehicles traveled in IFTA member jurisdictions. The auditor calculated the total miles all of the licensee's subject commercial motor vehicles had traveled in all IFTA and non-IFTA jurisdictions in the sampled quarters from the units' respective odometer readings. She then subtracted from this figure the total miles the taxpayer had reported on its IFTA-101 returns. The auditor called the difference between the two figures "gap" miles, based on her discovery that there were substantial gaps in the taxpayer's recorded odometer readings for the subject vehicles. She inferred that the reason for these gaps was that the licensee's drivers had failed to report miles traveled within a city or town (called "in-and-around" miles) on the individual trip mileage records its drivers had prepared. The taxpayer had totaled the miles recorded on these reports in quarterly mileage summaries that it in turn used to prepare its quarterly IFTA-101 returns. The taxpayer thus failed to report the "gap" or "in-and-around" miles because its drivers had failed to include them on their respective mileage records. The auditor prorated these miles to each member jurisdiction (except for Arizona and Wyoming, where the taxpayer had used trip permits) based on the miles the licensee had recorded in its quarterly summaries.

The licensee submits that the Department should waive the proposed negligence penalty. The taxpayer argues that under IFTA article IX, § F there is "reasonable cause," *id.*, to do so in that it relied on the mileage records that IFTA requires and that its drivers prepared. However, the licensee has not cited to any legal authority for the proposition that a taxpayer's employee's failure to record less than all of the information necessary to comply with the tax laws is "reasonable cause" to abate a penalty a taxing authority has assessed against that taxpayer.

Before ruling on the taxpayer's argument, the Department believes it appropriate to discuss the parts of IFTA, the IFTA Procedures Manual (1993), the IFTA Audit Procedures Manual (1993) and the Indiana Code (1993) in effect during the audit period that specified an IFTA licensee's procedural obligations in an administrative appeal of an audit finding. As it read during the audit period, IC § 6-8.1-3-14(b) stated in relevant part that "if the provisions set forth in [the Base State Fuel Tax A]greement or other agreements [*e.g.,* IFTA] are different from provisions prescribed by an Indiana statute, then the agreement provisions prevail." *Id.* IFTA article XVII, § G states that "[a]dopted procedures shall become a part of this Agreement and shall be placed in writing in the IFTA Procedures Manual." *Id.* IFTA Procedures Manual article VI, § A.3 states in relevant part that "[t]he assessment made by a base jurisdiction … shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden [of proof] shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive." *Id.*

BLACK'S LAW DICTIONARY (7th ed. 1999) defines the term "burden of proof" as a "party's duty to prove a disputed assertion or charge." *Id.* at 190. The burden of proof is two-fold, consisting of both the burden of persuasion and the burden of production. *Porter Mem'l Hosp. v. Malak*, 484 N.E.2d 54, 58 (Ind. Ct. App. 1985) (noting that "burden of proof" is not a precise term, as it can mean both the burdens of persuasion and production). The terms "burden of production" and "burden of persuasion" have two distinct meanings. *See State v. Huffman*, 643 N.E.2d 899, 900 (Ind. 1994) (stating that there are "two senses" of the term "burden of proof," the burdens of persuasion and production). The burden of production, also referred to as the burden of going forward, is the party's (in tax protests the taxpayer's) "duty to introduce enough evidence on an issue to have the issue decided by the fact-finder." *Id*. In other words, a taxpayer must submit evidence sufficient to establish a prima facie case, i.e., evidence sufficient to establish a given fact and which if not contradicted will remain sufficient to establish that fact. *See Longmire v. Indiana Dep't of State Revenue*, 638 N.E.2d 894, 898 (Ind. Tax Ct. 1994); *Canal Square Ltd. Partnership v. State Bd. of Tax Comm'rs*, 694 N.E.2d 801, 804 (Ind. Tax Ct. 1998). *Cf. Bullock v. Foley Bros. Dry Goods Corp.*, 802 S.W.2d 835, 839 (Tex. App. 1990) (observing, in challenge to state's sales and use tax audit, that comptroller's deficiency determination is prima facie correct and that taxpayer must disprove it with documentation).

In contrast to the burden of production component of the burden of proof, the burden of persuasion is the taxpayer's "duty to convince the fact-finder to view the facts in a way that favors that party. … —Also loosely termed *burden of proof*." BLACK'S LAW DICTIONARY 190 (7th ed. 1999) (emphasis in original.). Some cases have referenced this dual meaning. *See, e.g., Peabody Coal Co. v. Ralston*, 578 N.E.2d 751, 754 (Ind. Ct. App. 1991) (observing that in criminal cases, the "State carries the ultimate burden of proof, or burden of persuasion").

As previously noted, the taxpayer failed even to cite to, much less discuss, any authorities supporting the idea that its employees' misfeasance in record keeping is reasonable cause to abate the negligence penalty the Department assessed against it. It has therefore failed to sustain its burdens of persuasion, and of proof, on this point. IFTA article XVII, § G; IFTA Procedures Manual article VI, § A.3.

FINDING

The licensee's protest is denied as to this issue.

DEPARTMENT OF STATE REVENUE

0320020289P.LOF

LETTER OF FINDINGS NUMBER: 02-0289P
Withholding Tax
Calendar Years 12/31/99 and 12/31/00

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty for failing to withhold the non-resident county tax for non-resident employees. Taxpayer states that its payroll is processed by an outside service that has been made aware of the issue. Proper corrections have been made. Taxpayer requests the department waive the penalty assessed against it.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer had an outsourcing company whom it trusted to know the rules and regulations related to its business of processing payroll and paying the correct payroll taxes. Taxpayer requests a penalty waiver.

Taxpayer's agent prepared payroll for several employees and failed to deduct and remit the county tax for several non-resident employees. Taxpayer and its agent are responsible to assure tax is correctly deducted and remitted to the State of Indiana. Taxpayer has not provided reasonable cause for its failure to withhold and remit the tax.

The Department finds the penalty appropriate.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020290P.LOF

LETTER OF FINDINGS NUMBER: 02-0290P
Use Tax
Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an S-corporation that runs an auto body shop, paints buses and RV's, and designs graphic decals. Upon audit it was discovered that the taxpayer had no use tax accrual system in place and failed to self assess and pay tax for consumable supplies such as visqueen, tape, coveralls, brushes, rags, floor dry, buffing pads, polishing paste, office supplies, and other miscellaneous items. Taxpayer had no use tax accrual system in place.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that the underpayment was not intentional but due to a misunderstanding regarding the taxability of certain items. Taxpayer further states it has instituted corrective measure to assure it is fully compliant in the future.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer had no use tax accrual system in place and has failed to provide reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020291P.LOF

LETTER OF FINDINGS NUMBER: 02-0291P
Withholding Tax
Calendar Years 12/31/99 and 12/31/00

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.10-1; 45 IAC 15-11-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed penalty and interest for failing to remit all of its withholding tax by the due date. Upon audit it was discovered that the taxpayer failed to remit $66,257.68 in tax that it withheld from employees' wages in May 2000. Taxpayer paid the tax during the audit. Taxpayer requests the department waive the penalty and interest assessed against it.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to remit all of its withholding tax for the year 2000 and paid the outstanding tax during the audit. The department assessed a late payment penalty and updated interest. On May 29, 2002, taxpayer requested a penalty waiver because it took immediate action to issue a payment.

Taxpayer failed to remit its tax timely and has not provided reasonable cause for its failure.

The Department finds the penalty appropriate.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer requests the waiver of interest; however, the department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020292P.LOF

LETTER OF FINDINGS NUMBER: 02-0292P
Supplemental Net Income Tax (Premium Tax)
For Calendar Years 1996 and 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an insurance company. Although the taxpayer is not subject to gross income tax, it is liable for an apportioned amount of adjusted gross income tax because it has inventory in the state of Indiana.

Taxpayer filed a penalty protest letter dated January 18, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it elected to pay premium tax rather than income tax. Taxpayer states that until it filed its 1999 return, it believed this election exempted it from paying any tax in Indiana other than premium tax. Upon discovering that it should be paying supplemental income tax along with premium tax, it immediately paid the amount due for 1999 and sent amended returns for 1996 through 1998 with a check in the amount of $171,263.00. Taxpayer believes it made a conscientious effort to correct its original oversight and requests a waiver of the penalty.

Domestic insurance companies have the option of either paying premium tax or gross income tax. Regardless of which option they choose, they are subject to supplemental net income tax. Taxpayer incorrectly calculated supplemental net income tax that resulted in an underpayment of $53,588 in 1996 and $57,453 in 1997.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020298P.LOF

LETTER OF FINDINGS NUMBER: 02-0298P
Use Tax
Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer operates retail stores in Indiana. At audit, it was determined that the taxpayer failed to self assess and remit use tax and had no use tax accrual system in place. Taxpayer purchased capital assets for its Indiana stores and failed to pay the tax.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that this was an initial audit and it has taken appropriate steps to correct all sales and use tax reporting on a forward-looking basis. Taxpayer further states that the audit resulted in less than one percent (1%) of the total sales and use taxes paid.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer did not have a use tax accrual system in place and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020322.LOF

LETTER OF FINDINGS NUMBER: 02-0322
Sales and Use Taxes
Calendar Years 12/31/99 and 12/31/00

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Interest

Authority: IC 6-8.10-1; 45 IAC 15-11-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed penalty and interest for failing to accrue and remit use tax and failing to charge sales tax on a portion of its sales. Taxpayer had no use tax accrual system in place. Taxpayer requests the department waive the interest assessed against it.

I. Tax Administration – Interest

DISCUSSION

Taxpayer failed to accrue and remit tax due. The department assessed a penalty and updated interest. On May 24, 2002, taxpayer requested an interest waiver because it did not receive a billing until three months after the audit was completed.

The department has no authority to waive interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820020324P.LOF

LETTER OF FINDINGS NUMBER: 02-0324P
Gross and Adjusted Gross Income Tax
For the Year Ended December 31, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer remitted $121,172.95 after the due date of the return and was assessed penalty and interest. Taxpayer filed a penalty and interest protest stating that it met three conditions; i.e.,

(1) An extension of time to file has been granted;
(2) At least ninety percent (90%) of the tax reasonably expected to be due was paid by the original due date; and
(3) The remaining tax was paid by the extended due date.

Taxpayer states it believed it had paid one hundred percent of the tax liability and was unaware that the economic presence had increased so significantly in 1999. Due to the significant increase in its apportionment percentage, it underpaid its tax for the year. The tax was paid by the extended due date.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it paid one hundred percent of the tax reasonably expected to be due by the original due date and there was no willful neglect on its part.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to remit in excess of fifty percent (50%) of its tax by the original due date of the return. There is no provision in the Indiana Code that allows a taxpayer to pay the tax after the original due date without a penalty and the Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the additional interest assessed.

Payment is first applied to penalties, interest, and then tax. Interest continues to accrue until payment in full has been received. The Department has no statutory authority to waive interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020325P.LOF

LETTER OF FINDINGS NUMBER: 02-0325P
Withholding Tax
Month Ending 04/30/02

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late payment penalty for the month of April 2002. In a letter dated June 21, 2002, taxpayer requests a waiver of the penalty assessed. Taxpayer states the late filing was an oversight and not intentional.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to timely remit its withholding tax for the month of April 2002. Taxpayer states the late filing and payment was an oversight and not intentional.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by

the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer's failure to remit the tax timely was not the result of reasonable cause. Taxpayer has offered no reasonable explanation for the late payment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020326P.LOF

LETTER OF FINDINGS NUMBER: 02-0326P
Adjusted Gross Income Tax
For Fiscal Year Ended March 31, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the underpayment of estimated tax. The taxpayer is using the annualized income installment method. Taxpayer remitted $140,000 annualized tax payment for the year 2000. The minimum required annual payment is eighty percent (80%) of current year's tax or $156,734. The prior year tax was $159,316.

Taxpayer prepared the Federal Form 2220 instead of Indiana's IT-2220. Taxpayer was previously sent a copy of the department's adjusted IT-2220.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it complied with the Indiana State Revenue requirements and calculated its estimated tax on eighty percent (80%) of the estimated tax liability for the current year using the annualized income method.

To avoid the penalty, the quarterly estimate must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year.

The prior year's tax was $159,316 while the minimum required annual payment for the current year would have been $156,734 which is eighty percent (80%) of $195,917. Taxpayer remitted $140,000.

The Indiana Code does not provide corporations an exception to the penalty for underpayment of estimated taxes using either an annualized income or adjusted seasonal method.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020327P.LOF

LETTER OF FINDINGS NUMBER: 02-0327P
Gross and Adjusted Gross Income Tax
For Calendar Years 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

At audit it was determined that the taxpayer has not filed Indiana income tax returns and was assessed a penalty. Taxpayer has sales representatives operating in Indiana, technicians to setup, service, and repair machinery and provide training. The company has maintained inventories in Indiana, based rented vehicles in Indiana, and has Indiana resident employees.

Taxpayer filed a penalty protest dated June 11, 2002 stating that it did not realize that its activities in the state of Indiana created nexus for income tax purposes. Thus, it inadvertently failed to file Indiana Corporate Income Tax Returns for the years at issue.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states it did not willfully intend to neglect its Indiana income tax filing and payment obligations. Taxpayer states that as a result of the audit, it will diligently comply with all of its Indiana State tax filing obligations and requests an abatement of the penalty.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to file Indiana income tax return although it was registered to do business in Indiana and registered to withhold income taxes on its employees in Indiana. Taxpayer did not make itself aware of the Indiana tax laws when doing business in this state and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020330P.LOF

LETTER OF FINDINGS NUMBER: 02-0330P
Sales and Use Tax
Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an 18-hole golf course, pro-shop, restaurant and bar. At audit, it was determined that the taxpayer failed to collect and remit sales tax for golf cart rentals, included food sales plus sales tax as green fees, and failed to accrue use tax on untaxed taxable purchases. Taxpayer had no use tax accrual system in place. Taxpayer was given credit in the audit for items it erroneously self-assessed use tax.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a penalty waiver because of a financial downturn in the past three years. Taxpayer further states that its costs have doubled and it is locked into golf rates that go back five years. Taxpayer states it cannot raise rates to help offset its ever-increasing cost.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to remit sales tax on approximately fifty percent (50%) of its taxable sales and had no use tax accrual

system in place. Audit allowed a credit where the taxpayer erroneously paid tax upon golf carts. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020342P.LOF

LETTER OF FINDINGS NUMBER: 02-0342P
Individual Income Tax
Calendar Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed additional tax because he failed to add back income taxes deducted on his federal return for calendar year 1999. Taxpayer also included in miscellaneous expense, the repayment of a personal loan which was never reported as income in 1999, failed to add back property taxes that he deducted on his Federal return in 1998 and failed to file an income tax return for the year 2000.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a penalty waiver because of a financial downturn in the past three years in his business. Taxpayer further states that its costs have doubled and he is locked into golf rates that go back five years. Taxpayer states it cannot raise rates to help offset its ever-increasing cost.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer understated his Indiana Adjusted Gross Income by 68.12%, 92.68%, and 100% for calendar years 1998, 1999, and 2000 respectively and has not provided reasonable cause to allow a waiver of the penalty.

FINDING

Taxpayer's protest is denied.

For Cumulative Tables of Nonrule Policy Documents printed in the Indiana Register in previous years, consult the following table:

1982	See 5 IR 2586	(December 1982)
1983	See 7 IR 252	(December 1983)
1984	See 8 IR 1220	(June 1985)
1985	See 9 IR 932	(January 1986)
1986	See 10 IR 173	(October 1986)
1987	See 11 IR 2786	(April 1988)
1988	See 12 IR 1023	(January 1989)
1989	See 13 IR 791	(January 1990)
1990	See 14 IR 956	(January 1991)
1991	See 15 IR 651	(January 1992)
1992	See 16 IR 1311	(January 1993)
1993	See 17 IR 897	(January 1994)
1994	See 18 IR 1166	(January 1995)
1995	See 19 IR 954	(January 1996)
1996	See 20 IR 1040	(January 1997)
1997	See 21 IR 1628	(January 1998)
1998	See 22 IR 1324	(January 1999)
1999	See 23 IR 1013	(January 2000)
2000	See 24 IR 1241	(January 2001)
2001	See 25 IR 1406	(January 2002)

Cumulative Tables of Executive Orders and Attorney General's Opinions

EXECUTIVE ORDERS

Number/Digest		Published
01-14	Pardon: Vernon Allan Beaty	25 IR 1741
01-15	Establishing the Indiana Counterterrorism Council	25 IR 1741
01-16	The Hoosiers Helping Hoosiers Food Drive	25 IR 1742
01-17	Establishing the Office of Public Finance	25 IR 1743
01-18	Postponement of the date of expiration of rules until one year after date specified in IC 4-22-2.5	25 IR 1745
02-01	Creation of the Commission on Juvenile Law	25 IR 3908
02-02	Transition and closure of Muscatatuck State Developmental Center and related community based services for people with disabilities	25 IR 3909
02-03	Pardon: Aaron Abbott	25 IR 3911
02-04	Pardon: David Mullett	25 IR 3911
02-05	Pardon: John Wayne Agee	25 IR 3912
02-06	Pardon: John Eric Henry	25 IR 3912
02-07	Pardon: Raymond D. Thompson	25 IR 3913
02-08	Pardon: Robert Neumann	25 IR 3914
02-09	Pardon: Bill Miller	25 IR 3914
02-10	Pardon: Thomas Joseph Kelley	25 IR 3915
02-11	Pardon: Timmy Huber	25 IR 3915
02-12	Pardon: Peggy Higgins	25 IR 3916
02-13	Pardon: Gerald Price	25 IR 3917
02-14	Declaring a disaster emergency in the state of Indiana due to flooding and high winds	25 IR 3917
02-15	Creation of the Commission on Home and Community-Based Services	25 IR 4227
02-16	Establishing and clarifying duties of state agencies, for all matters relating to emergency management	25 IR 4228

For Cumulative Tables of Executive Orders and Attorney General's Opinions printed in the Indiana Register in previous years, consult the following table:

1978	See 2 IR 181	(February 1979)
1979	See 3 IR 336	(March 1980)
1980	See 3 IR 2266	(December 1980)
1981	See 5 IR 179	(January 1982)
1982	See 5 IR 2588	(December 1982)
1983	See 7 IR 256	(December 1983)
1984	See 8 IR 249	(December 1984)
1985	See 9 IR 933	(January 1986)
1986	See 10 IR 175	(October 1986)
1987	See 11 IR 2790	(April 1988)
1988	See 12 IR 1025	(January 1989)
1989	See 13 IR 792	(January 1990)
1990	See 14 IR 957	(January 1991)
1991	See 15 IR 652	(January 1992)
1992	See 16 IR 1312	(January 1993)
1993	See 17 IR 898	(January 1994)
1994	See 18 IR 1167	(January 1995)
1995	See 19 IR 955	(January 1996)
1996	See 20 IR 1043	(January 1997)
1997	See 21 IR 1633	(January 1998)
1998	See 22 IR 1332	(January 1999)
1999	See 23 IR 1022	(January 2000)
2000	See 24 IR 1249	(January 2001)
2001	See 25 IR 1413	(January 2002)

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

10 IAC 2	RA	01-311	25 IR 183	**25 IR 897**
10 IAC 4	N	01-264	25 IR 128	**25 IR 2208**

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

11 IAC	N	01-265	25 IR 130	*CPH (25 IR 403) **25 IR 1854**
11 IAC 2-2-5	N	02-18	25 IR 2281	*AROC (25 IR 3884) **25 IR 3702**
11 IAC 2-5-1	A	02-18	25 IR 2281	*AROC (25 IR 3884) **25 IR 3702**
11 IAC 2-5-2	A	02-18	25 IR 2281	*AROC (25 IR 3884) **25 IR 3702**
11 IAC 2-5-3	A	02-18	25 IR 2281	*AROC (25 IR 3884) **25 IR 3702**
11 IAC 2-5-4	N	02-18	25 IR 2281	*AROC (25 IR 3884) **25 IR 3702** *ERR (26 IR 35)
11 IAC 2-6-1	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-5	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-6	N	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-9	N	02-19	25 IR 2282	**25 IR 3703**

TITLE 20 STATE BOARD OF ACCOUNTS

20 IAC 1	RA	01-192	25 IR 183	**25 IR 897**
20 IAC 2	RA	01-192	25 IR 183	**25 IR 897**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 1.1	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 1.5	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2-19	R	02-150	26 IR 86	
25 IAC 2-20	R	02-150	26 IR 86	
25 IAC 4	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 5	N	02-150	26 IR 67	

TITLE 31 STATE PERSONNEL DEPARTMENT

31 IAC 1-9-3	A	02-10	25 IR 3214	
31 IAC 1-9-4	A	02-10	25 IR 3215	
31 IAC 1-9-4.5	A	02-10	25 IR 3215	
31 IAC 1-12.1	R	02-10	25 IR 3219	
31 IAC 2-11-3	A	02-10	25 IR 3216	
31 IAC 2-11-4	A	02-10	25 IR 3217	
31 IAC 2-11-4.5	A	02-10	25 IR 3217	
31 IAC 2-17.1	R	02-10	25 IR 3219	
31 IAC 4	R	02-10	25 IR 3219	
31 IAC 5	N	02-10	25 IR 3218	

TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

35 IAC 1.2-1-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-3	RA	01-217	24 IR 4201	**25 IR 1265**
35 IAC 1.2-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3-10	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-3-11	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-3-12	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-4-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-5	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-5	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-6	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-8	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-9	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-10	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-11	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-12	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-13	RA	01-217	24 IR 4202	**25 IR 1266**
35 IAC 1.2-5-14	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-15	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-16	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-17	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-18	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-19	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-20	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6-3	RA	01-217	24 IR 4203	**25 IR 1267**
35 IAC 1.2-6-7	N	01-196	24 IR 4017	**25 IR 1488**
35 IAC 1.2-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 2	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 4	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 6	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 8	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 8-1-1	A	02-163	25 IR 4134	
35 IAC 8-1-2	A	02-163	25 IR 4134	
35 IAC 8-2-1	A	02-163	25 IR 4135	
35 IAC 9-1-1	A	02-163	25 IR 4136	
35 IAC 9-1-2	A	02-163	25 IR 4136	
35 IAC 9-1-3	A	02-163	25 IR 4136	
35 IAC 9-1-4	A	02-163	25 IR 4136	
35 IAC 10	N	02-163	25 IR 4137	

TITLE 45 DEPARTMENT OF STATE REVENUE

45 IAC 18-1-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-4	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-6	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-7	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-9	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-11	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-12	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-13	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-15	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-16	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-18	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-20	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-21	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-22	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129)

45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129)
45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129)
45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129)
45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129)
45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-8	N	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129)
45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129)
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

50 IAC 2.3-1-1	A	01-305	25 IR 835	**26 IR 6**
	A	01-402	26 IR 86	*AROC (26 IR 183)
				*AROC (26 IR 184)
	A	02-240	26 IR 88	
50 IAC 2.3-1-2	A	01-366	25 IR 1200	*ARR (25 IR 3760)
				*AWR (26 IR 39)
	A	01-402	26 IR 87	*AROC (26 IR 183)
				*AROC (26 IR 184)
50 IAC 3.1	R	01-367	25 IR 2550	
50 IAC 3.2	N	01-367	25 IR 2548	
50 IAC 4.2-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-3	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-4	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-5	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-6	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-8	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-9	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-10	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-11	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-12	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-14	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-15	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-16	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.3	N	00-284	24 IR 4018	*AROC (24 IR 4240)
				25 IR 1489
50 IAC 5.1	R	01-347	25 IR 435	**25 IR 1875**
50 IAC 5.2	N	01-347	25 IR 417	**25 IR 1859**
50 IAC 14	N	00-283	25 IR 1930	**25 IR 4048**
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
50 IAC 15-1-6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-1	A	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 17-5-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-6-2	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-7-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-10.5	N	00-188	24 IR 706	*AROC (24 IR 2590)

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N	02-206	26 IR 89	

TITLE 55 DEPARTMENT OF COMMERCE

55 IAC 1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 2	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 3.1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 4	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 5	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 6	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 8	RA	01-239	25 IR 518	**25 IR 1267**

TITLE 58 ENTERPRISE ZONE BOARD

58 IAC 1	RA	01-267	25 IR 518	**25 IR 1267**
58 IAC 2	RA	01-267	25 IR 518	**25 IR 1267**

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 1.1	RA	01-318	25 IR 519	**25 IR 1268**
60 IAC 2	RA	01-318	25 IR 519	**25 IR 1268**

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 3-3-3	A	02-252		*ER (26 IR 40)
65 IAC 3-3-10	A	02-252		*ER (26 IR 40)
65 IAC 3-4-4	A	02-252		*ER (26 IR 41)
65 IAC 3-4-5	A	02-252		*ER (26 IR 42)
65 IAC 4-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-2-4	A	02-253		*ER (26 IR 42)
65 IAC 4-2-8	A	02-253		*ER (26 IR 43)
65 IAC 4-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-205	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248-10	N	01-379		*ER (25 IR 816)
65 IAC 4-248-11	N	01-379		*ER (25 IR 816)
65 IAC 4-279	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287-9	N	01-380		*ER (25 IR 816)

65 IAC 4-287-10	N	01-380		*ER (25 IR 816)
65 IAC 4-332	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-354	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-441	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-442	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-443	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-444	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-446	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-447	N	01-325		*ER (25 IR 109)
65 IAC 4-448	N	02-65		*ER (25 IR 2269)
65 IAC 4-450	N	02-102		*ER (25 IR 2531)
65 IAC 4-451	N	02-228		*ER (25 IR 4125)
65 IAC 5-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-2-4	A	02-253		*ER (26 IR 43)
65 IAC 5-2-8	A	02-253		*ER (26 IR 43)
65 IAC 5-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-5	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-6	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-7	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-9	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-10	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-12	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-12-2	A	02-254		*ER (26 IR 44)
65 IAC 5-12-3	A	02-254		*ER (26 IR 45)
65 IAC 5-12-4	A	02-254		*ER (26 IR 45)
65 IAC 5-12-5	A	02-254		*ER (26 IR 46)
65 IAC 5-12-6	A	02-254		*ER (26 IR 46)
65 IAC 5-12-7	A	02-254		*ER (26 IR 47)
65 IAC 5-12-9	A	02-254		*ER (26 IR 47)
65 IAC 5-12-10	A	02-254		*ER (26 IR 47)
65 IAC 5-12-11	A	02-254		*ER (26 IR 48)
65 IAC 5-12-12	A	02-254		*ER (26 IR 49)
65 IAC 5-12-12.5	A	02-254		*ER (26 IR 49)
65 IAC 5-12-14	A	02-254		*ER (26 IR 51)
65 IAC 5-15	N	02-26		*ER (25 IR 1909)
65 IAC 6-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-1-1.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-1.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-4.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-10	N	02-255		*ER (26 IR 52)
65 IAC 6-2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-2-3	A	02-255		*ER (26 IR 52)
65 IAC 6-2-4	A	02-255		*ER (26 IR 52)
65 IAC 6-2-5	A	02-255		*ER (26 IR 52)
65 IAC 6-2-8	A	02-255		*ER (26 IR 53)
65 IAC 6-2-9	A	02-255		*ER (26 IR 53)
65 IAC 6-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-3-2	A	02-255		*ER (26 IR 53)
65 IAC 6-3-3	R	02-255		*ER (26 IR 54)
65 IAC 6-4-6	R	02-255		*ER (26 IR 54)
65 IAC 6-4-7	R	02-255		*ER (26 IR 54)
65 IAC 6-4-8	R	02-255		*ER (26 IR 54)
65 IAC 6-4-9	R	02-255		*ER (26 IR 54)
65 IAC 6-4-10	R	02-255		*ER (26 IR 54)
65 IAC 6-4-11	R	02-255		*ER (26 IR 54)
65 IAC 6-4-12	R	02-255		*ER (26 IR 54)

TITLE 68 INDIANA GAMING COMMISSION

68 IAC 1	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2-2-1	A	01-23	24 IR 2728	**25 IR 1060**
68 IAC 2-2-9.5	N	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-3-5	A	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-6-6	A	01-23	24 IR 2732	**25 IR 1064**
68 IAC 3	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 3-3-6	A	01-23	24 IR 2732	**25 IR 1065**
68 IAC 4	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 5	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 6	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 7	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 8	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 9	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 10	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 10-2-1	A	01-23	24 IR 2733	**25 IR 1065**
68 IAC 11	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 11-2-7	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 11-5-1	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 12	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 13	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 14-2-2	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 14-3-8	N	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-10-2	A	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-11-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 14-12-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 15	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 15-2-3	A	01-23	24 IR 2736	**25 IR 1069**
68 IAC 15-2-6	A	01-23	24 IR 2737	**25 IR 1069**
68 IAC 15-4-2	A	01-23	24 IR 2738	**25 IR 1070**
68 IAC 15-4-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-7-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-8-1	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-8-2	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-14	N	01-23	24 IR 2740	**25 IR 1073**
68 IAC 16	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 17	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 18	RA	01-418	25 IR 2589	*CPH (25 IR 3208)

TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 1.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 2	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3-2-9	A	02-96		*ER (25 IR 2534)
71 IAC 3-10-1	A	02-96		*ER (25 IR 2534)
71 IAC 3.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5-2-7	N	01-322		*ER (25 IR 118)
71 IAC 4.5-3-9	A	01-322		*ER (25 IR 118)
71 IAC 5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5-3-3	A	02-96		*ER (25 IR 2535)
71 IAC 5.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5.5-1-12	A	01-322		*ER (25 IR 118)
71 IAC 5.5-1-13	A	01-322		*ER (25 IR 118)
71 IAC 5.5-2-1	A	01-322		*ER (25 IR 118)
71 IAC 5.5-3-6	A	01-322		*ER (25 IR 119)
71 IAC 5.5-5-3	A	02-250		*ER (26 IR 55)
71 IAC 6	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6-1-2	A	02-96		*ER (25 IR 2536)
71 IAC 6.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6.5-1-4	A	02-250		*ER (26 IR 55)
71 IAC 7	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7-1-26	A	02-96		*ER (25 IR 2536)
71 IAC 7-1-28	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-9	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-13	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-16	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-25	A	02-96		*ER (25 IR 2537)
71 IAC 7.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7.5-3-4	A	01-322		*ER (25 IR 119)
71 IAC 7.5-4-2	A	01-322		*ER (25 IR 120)
71 IAC 7.5-10	N	02-250		*ER (26 IR 56)
71 IAC 8	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8-5-7	A	02-96		*ER (25 IR 2538)
71 IAC 8-11-3	A	02-96		*ER (25 IR 2538)

71 IAC 8.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8.5-3-1	A	01-322		*ER (25 IR 121)
71 IAC 8.5-3-2	A	01-322		*ER (25 IR 121)
71 IAC 8.5-4-5	A	01-322		*ER (25 IR 121)
71 IAC 8.5-4-8	N	02-250		*ER (26 IR 57)
71 IAC 8.5-5-2	N	02-250		*ER (26 IR 57)
71 IAC 8.5-10-5	A	01-322		*ER (25 IR 122)
71 IAC 8.5-10-6	A	02-250		*ER (26 IR 58)
71 IAC 9	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 10	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 11	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12-2-15	A	01-410		*ER (25 IR 1189)
	A	02-251		*ER (26 IR 58)
71 IAC 12-2-17	R	01-410		*ER (25 IR 1190)
71 IAC 12-2-18	A	01-410		*ER (25 IR 1190)
71 IAC 12-2-19	A	01-410		*ER (25 IR 1190)
	A	02-251		*ER (26 IR 59)
71 IAC 12-2-20	A	01-410		*ER (25 IR 1190)
71 IAC 13.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 13.5-1-1	A	01-322		*ER (25 IR 122)
71 IAC 13.5-2-1	A	01-322		*ER (25 IR 122)
71 IAC 14.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 14.5-1-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1190)
71 IAC 14.5-1-3	A	02-97		*ER (25 IR 2538)
71 IAC 14.5-2-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1191)
71 IAC 14.5-2-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-3	A	02-97		*ER (25 IR 2539)

TITLE 80 STATE FAIR COMMISSION

80 IAC 1	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 2	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 3	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 4	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 5	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 6	RA	01-126	24 IR 3789	**25 IR 528**

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 3	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 4	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5-10-1	A	01-390	25 IR 1673	**25 IR 4051**
105 IAC 5-10-2	A	01-390	25 IR 1674	**25 IR 4052**
105 IAC 6-1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 6-2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 7	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9-4-4	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-5	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-6	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-7	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-8	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-9	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-10	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-11	A	01-374	25 IR 839	**25 IR 2441**
105 IAC 9-4-12	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 9-4-13	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 10	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 11	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12-1-6	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-9	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-10	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-12	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-13	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-14	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-16	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20.1	N	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-21	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-23	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-24	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-25	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-26	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-2-4	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-6	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-7	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-9	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-14	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-16	A	00-248	24 IR 3666	**25 IR 369**
105 IAC 12-3-1	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-2	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-3	R	00-248	24 IR 3670	**25 IR 372**
105 IAC 12-3-4	A	00-248	24 IR 3667	**25 IR 370**
105 IAC 12-3-5	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-7	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-8	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-1	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-3	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-4	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-6	A	00-248	24 IR 3670	**25 IR 372**

TITLE 130 INDIANA PORT COMMISSION

130 IAC 1	RA	01-319	25 IR 185	**25 IR 900**
	R	01-395	25 IR 1683	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3712
130 IAC 2	N	01-395	25 IR 1674	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3703
130 IAC 3	N	01-395	25 IR 1676	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3705
130 IAC 4	N	01-395	25 IR 1679	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3708

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

135 IAC 2	RA	02-175	25 IR 4219
135 IAC 2-1-1	A	02-171	25 IR 4138
135 IAC 2-2-1	A	02-171	25 IR 4140
135 IAC 2-2-3	A	02-171	25 IR 4140
135 IAC 2-2-5	A	02-171	25 IR 4140
135 IAC 2-2-10	A	02-171	25 IR 4141
135 IAC 2-2-12	A	02-171	25 IR 4141
135 IAC 2-3-1	A	02-171	25 IR 4141
135 IAC 2-3-2	A	02-171	25 IR 4141
135 IAC 2-4-1	A	02-171	25 IR 4141
135 IAC 2-4-4	A	02-171	25 IR 4142
135 IAC 2-5-1	A	02-171	25 IR 4142
135 IAC 2-5-2	A	02-171	25 IR 4142
135 IAC 2-6-1	A	02-171	25 IR 4148
135 IAC 2-7-1	A	02-171	25 IR 4148
135 IAC 2-7-3	A	02-171	25 IR 4148
135 IAC 2-7-7	A	02-171	25 IR 4148
135 IAC 2-7-11	A	02-171	25 IR 4149
135 IAC 2-7-15	A	02-171	25 IR 4149
135 IAC 2-7-18	A	02-171	25 IR 4149
135 IAC 2-7-19	R	02-171	25 IR 4151

135 IAC 2-7-20	A	02-171	25 IR 4149	
135 IAC 2-7-23	A	02-171	25 IR 4149	
135 IAC 2-8-1	A	02-171	25 IR 4149	
135 IAC 2-8-3	A	02-171	25 IR 4150	
135 IAC 2-8-5	A	02-171	25 IR 4150	
135 IAC 2-8-7	A	02-171	25 IR 4150	
135 IAC 2-8-11	A	02-171	25 IR 4150	
135 IAC 2-10-1	A	02-171	25 IR 4151	
135 IAC 2-10-2	A	02-171	25 IR 4151	
135 IAC 3	RA	02-175	25 IR 4219	

TITLE 140 BUREAU OF MOTOR VEHICLES

140 IAC 1-1-7	RA	01-75	24 IR 2862	**25 IR 900**
140 IAC 1-1-11	RA	01-75	24 IR 2863	**25 IR 901**
140 IAC 1-2-2	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-2-3	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-4.5-4	RA	01-75	24 IR 2865	**25 IR 902**
140 IAC 1-4.5-6	RA	01-75	24 IR 2865	**25 IR 903**
140 IAC 1-4.5-10	RA	01-75	24 IR 2866	**25 IR 903**
140 IAC 1-5-3	RA	01-75	24 IR 2871	**25 IR 909**
140 IAC 1-8-1	RA	01-75	24 IR 2872	**25 IR 910**
140 IAC 2-4-3	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-4	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-9	RA	01-77	24 IR 2874	**25 IR 911**
140 IAC 3-3-6	RA	01-79	24 IR 2875	**25 IR 911**
140 IAC 3.5-2-4	RA	01-81	24 IR 2877	**25 IR 912**
140 IAC 3.5-2-9	RA	01-81	24 IR 2878	**25 IR 913**
140 IAC 3.5-2-11	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-13	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-15	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 4-1-4	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-5	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-11	RA	01-83	24 IR 2881	**25 IR 916**
140 IAC 4-1-13	RA	01-83	24 IR 2882	**25 IR 916**
140 IAC 4-3-1	RA	01-83	24 IR 2883	**25 IR 917**
140 IAC 5-1-2	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-3	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-4	RA	01-85	24 IR 2885	**25 IR 919**
140 IAC 6-1-7	RA	01-87	24 IR 2886	**25 IR 920**
140 IAC 7-2-5	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-2-6	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-3-5	RA	01-89	24 IR 2888	**25 IR 921**
140 IAC 7-3-9	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-10	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-11	RA	01-89	24 IR 2889	**25 IR 922**
140 IAC 7-3-13	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 7-3-17	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 8-1-1	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-2	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-3	RA	01-118	24 IR 3209	**25 IR 923**
140 IAC 8-2-1	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-2	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-3	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-2-4	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-3-1.1	RA	01-118	24 IR 3215	**25 IR 929**
140 IAC 8-3-2	RA	01-118	24 IR 3220	**25 IR 929**
140 IAC 8-3-3	RA	01-118	24 IR 3215	**25 IR 935**
140 IAC 8-3-4	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-5	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-6	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-7	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-8	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-9	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-10	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-11	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-12	RA	01-118	24 IR 3216	**25 IR 931**
140 IAC 8-3-13	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-14	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-15	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-16	RA	01-118	24 IR 3217	**25 IR 932**
140 IAC 8-3-17	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-18	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-19	RA	01-118	24 IR 3218	**25 IR 933**
140 IAC 8-3-20	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-21	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-22	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-23	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-24	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-25	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-26	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-27	RA	01-118	24 IR 3220	**25 IR 935**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 1-1.1-1	A	01-9	24 IR 1690	*ARR (24 IR 3653)
			24 IR 4055	*CPH (25 IR 403)
				25 IR 1875
170 IAC 4-1-26	A	02-44	25 IR 2751	
170 IAC 4-4.1-9				*ERR (25 IR 2521)
170 IAC 7-1.1-1	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-2	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-3	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-4	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-5	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-6	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-7	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-8	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-9	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-10	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-11	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-12	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-13	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-14	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-15	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-16	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-17	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-18	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-19	A	01-236	25 IR 135	**25 IR 2209**
170 IAC 7-1.2	N	00-34	23 IR 2025	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	N	01-341	25 IR 1933	**25 IR 4053**
170 IAC 7-1.3	N	00-213	24 IR 707	*AWR (25 IR 107)
	N	01-342	25 IR 1946	**25 IR 4066**

TITLE 205 INDIANA CRIMINAL JUSTICE INSTITUTE

205 IAC 1	RA	01-219	25 IR 185	*CPH (25 IR 831) **25 IR 3462**
205 IAC 2	RA	01-219	25 IR 185	*CPH (25 IR 831) **25 IR 3462**

TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 1-6-1	A	01-358	25 IR 1200	*ARR (25 IR 4114)
210 IAC 1-6-2	A	01-358	25 IR 1201	*ARR (25 IR 4114)
210 IAC 1-6-3	R	01-358	25 IR 1212	*ARR (25 IR 4114)
210 IAC 1-6-4	A	01-358	25 IR 1201	*ARR (25 IR 4114)
210 IAC 1-6-5	A	01-358	25 IR 1202	*ARR (25 IR 4114)
210 IAC 1-6-6	A	01-358	25 IR 1203	*ARR (25 IR 4114)
210 IAC 1-6-7	A	01-358	25 IR 1204	*ARR (25 IR 4114)
210 IAC 1-10	N	01-358	25 IR 1204	*ARR (25 IR 4114)
210 IAC 2	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 3	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5-1-1	A	01-358	25 IR 1206	*ARR (25 IR 4114)
210 IAC 5-1-2	A	01-358	25 IR 1207	*ARR (25 IR 4114)
210 IAC 5-1-3	A	01-358	25 IR 1207	*ARR (25 IR 4114)
210 IAC 5-1-4	A	01-358	25 IR 1210	*ARR (25 IR 4114)
210 IAC 6-1-1	A	02-173	25 IR 4152	
210 IAC 6-2-1	RA	02-174	25 IR 4219	
210 IAC 6-2-2	RA	02-174	25 IR 4219	
210 IAC 6-2-3	A	02-173	25 IR 4152	
210 IAC 6-2-4	A	02-173	25 IR 4152	
210 IAC 6-2-5	A	02-173	25 IR 4152	
210 IAC 6-2-6	RA	02-174	25 IR 4219	
210 IAC 6-2-7	RA	02-174	25 IR 4219	
210 IAC 6-2-8	RA	02-174	25 IR 4219	
210 IAC 6-2-9	RA	02-174	25 IR 4219	
210 IAC 6-2-10	RA	02-174	25 IR 4219	
210 IAC 6-2-11	RA	02-174	25 IR 4219	
210 IAC 6-2-12	RA	02-174	25 IR 4219	
210 IAC 6-2-13	A	02-173	25 IR 4152	
210 IAC 6-3-1	A	02-173	25 IR 4152	
210 IAC 6-3-2	A	02-173	25 IR 4153	
210 IAC 6-3-3	A	02-173	25 IR 4153	
210 IAC 6-3-4	A	02-173	25 IR 4154	
210 IAC 6-3-5	A	02-173	25 IR 4155	
210 IAC 6-3-6	RA	02-174	25 IR 4219	
210 IAC 6-3-7	RA	02-174	25 IR 4219	
210 IAC 6-3-8	RA	02-174	25 IR 4219	
210 IAC 6-3-9	A	02-173	25 IR 4155	
210 IAC 6-3-10	A	02-173	25 IR 4155	
210 IAC 6-3-11	A	02-173	25 IR 4155	
210 IAC 6-3-12	RA	02-174	25 IR 4219	

TITLE 220 PAROLE BOARD

220 IAC 1.1	RA	01-291	25 IR 186	**25 IR 935**

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 1-4-1	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-2	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-18	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-22	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-2	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-7.1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-8	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-23	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 7	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 7-1-6	RA	02-139	25 IR 3882	

TITLE 250 LAW ENFORCEMENT TRAINING BOARD

250 IAC 1-1.1	RA	02-149	25 IR 3882	
250 IAC 1-2	RA	02-149	25 IR 3882	
250 IAC 1-3-1	RA	02-149	25 IR 3882	
250 IAC 1-3-3	RA	02-149	25 IR 3882	
250 IAC 1-3-6	RA	02-149	25 IR 3882	
250 IAC 1-3-7	RA	02-149	25 IR 3882	
250 IAC 1-3-8	RA	02-149	25 IR 3882	
250 IAC 1-3-9	RA	02-149	25 IR 3882	
250 IAC 1-3-10	RA	02-149	25 IR 3882	
250 IAC 1-3-11	RA	02-149	25 IR 3882	
250 IAC 1-3-12	RA	02-149	25 IR 3882	
250 IAC 1-3-13	RA	02-149	25 IR 3882	
250 IAC 1-5	RA	02-149	25 IR 3882	
250 IAC 1-5.1	RA	02-149	25 IR 3882	
250 IAC 1-5.2	RA	02-149	25 IR 3882	
250 IAC 1-5.3	RA	02-149	25 IR 3882	
250 IAC 1-5.4	RA	02-149	25 IR 3882	
250 IAC 1-5.5	RA	02-149	25 IR 3882	
250 IAC 1-6-1	RA	02-149	25 IR 3882	
250 IAC 1-6-2	RA	02-149	25 IR 3882	
250 IAC 1-6-3	RA	02-149	25 IR 3882	
250 IAC 1-6-4	RA	02-149	25 IR 3882	
250 IAC 1-6-5	RA	02-149	25 IR 3882	
250 IAC 1-6-6	RA	02-149	25 IR 3882	
250 IAC 1-7	RA	02-149	25 IR 3882	

TITLE 260 STATE DEPARTMENT OF TOXICOLOGY

260 IAC 1.1-2-3	RA	02-77	25 IR 2853	**25 IR 4221**
260 IAC 1.1-3-1	RA	02-77	25 IR 2853	**25 IR 4221**

TITLE 270 ADJUTANT GENERAL

270 IAC 1	RA	01-320	25 IR 186	**25 IR 1269**

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	
312 IAC 2-3-3	A	01-124	24 IR 4057	**25 IR 1542**
312 IAC 2-4-3	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 2-4-9.5	N	01-295	25 IR 842	**25 IR 3045**
312 IAC 3	RA	02-72	25 IR 3461	
312 IAC 3-1-1	A	02-2	25 IR 2552	**26 IR 7**
312 IAC 3-1-2	A	01-124	24 IR 4057	**25 IR 1543**
	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-3	A	01-124	24 IR 4058	**25 IR 1543**
	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-8	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-14	A	01-124	24 IR 4058	**25 IR 1543**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 3-1-18	A	01-124	24 IR 4058	**25 IR 1544**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 5-6-6	A	01-293	25 IR 3239	
	A	02-162	25 IR 4165	
312 IAC 5-9-2	A	01-283	25 IR 1213	**25 IR 3044**
312 IAC 5-9-4	N	01-282	25 IR 1212	**25 IR 3044**
312 IAC 8-1-4	A	01-124	24 IR 4059	**25 IR 1544**
	A	01-412	25 IR 1954	**25 IR 3713**
312 IAC 8-2-2	A	01-34	24 IR 4055	
312 IAC 8-2-3	A	01-412	25 IR 1955	**25 IR 3714**
312 IAC 8-2-6	A	01-34	24 IR 4056	**25 IR 1074**
	A	01-412	25 IR 1956	**25 IR 3715**
312 IAC 8-2-8	A	01-412	25 IR 1957	**25 IR 3715**
312 IAC 8-2-11	A	01-412	25 IR 1957	**25 IR 3716**
312 IAC 8-5-3	A	01-34	24 IR 4056	**25 IR 1074**

312 IAC 9-2-7	R	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-2-13	A	02-68	25 IR 2751	
312 IAC 9-3-2	A	01-102	24 IR 3671	**25 IR 1528**
312 IAC 9-3-3	A	01-102	24 IR 3672	**25 IR 1530**
312 IAC 9-3-4	A	01-102	24 IR 3673	**25 IR 1530**
312 IAC 9-3-5	A	01-102	24 IR 3673	**25 IR 1531**
312 IAC 9-3-7	A	01-102	24 IR 3674	**25 IR 1532**
312 IAC 9-3-8	A	01-102	24 IR 3675	**25 IR 1532**
312 IAC 9-3-19	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-4-11	A	01-102	24 IR 3675	**25 IR 1533**
312 IAC 9-4-14	A	01-102	24 IR 3677	**25 IR 1535**
	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-5-4	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-5-7	A	01-102	24 IR 3677	**25 IR 1535**
312 IAC 9-6-1	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-6-3	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-6	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-9	A	01-359	25 IR 1216	**25 IR 3048**
312 IAC 9-7-2	A	01-102	24 IR 3680	**25 IR 1537**
				*ERR (25 IR 2254)
312 IAC 9-7-3	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-6	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-12	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-13	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-17	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-18	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 9-9-4	A	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-10-6	A	02-68	25 IR 2752	
312 IAC 9-10-11	A	01-444	25 IR 2551	
312 IAC 9-10-17	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 10-3-1				*ERR (25 IR 1644)
312 IAC 10-5-4	A	01-124	24 IR 4060	**25 IR 1545**
				*ERR (25 IR 2521)
312 IAC 10-5-8	A	01-124	24 IR 4061	**25 IR 1546**
				*ERR (25 IR 1906)
312 IAC 11-2-17	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 11-4-4	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 13-4-1	A	01-106	24 IR 3102	**25 IR 708**
312 IAC 13-6-2	A	01-106	24 IR 3102	**25 IR 709**
312 IAC 16-3-2	A	02-73	25 IR 4156	
312 IAC 16-3.5	N	02-73	25 IR 4158	
312 IAC 16-4-1	A	02-73	25 IR 4158	
312 IAC 16-4-2	A	02-73	25 IR 4159	
312 IAC 16-4-5	A	02-73	25 IR 4159	
312 IAC 18	RA	02-72	25 IR 3461	
312 IAC 18-3-12	A	01-360	25 IR 1217	**25 IR 3049**
312 IAC 22.5	N	01-361	25 IR 2283	**25 IR 4074**
312 IAC 23-3-5	N	01-91	24 IR 3670	**25 IR 708**
312 IAC 25				*ERR (25 IR 106)
				*ERR (25 IR 1182)
312 IAC 25-1-45.5	N	02-104	25 IR 4160	
312 IAC 25-1-60.5	N	02-104	25 IR 4160	
312 IAC 25-4-43	A	02-104	25 IR 4160	
312 IAC 25-4-47	A	02-104	25 IR 4161	
312 IAC 25-4-85	A	02-104	25 IR 4162	
312 IAC 25-4-93	A	02-104	25 IR 4163	
312 IAC 25-6-12.5	N	02-104	25 IR 4164	
312 IAC 25-6-76.5	N	02-104	25 IR 4164	
312 IAC 26-1-13	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 26-2-3	A	01-124	24 IR 4062	**25 IR 1548**
				*ERR (25 IR 2521)
312 IAC 26-3-4	A	01-124	24 IR 4063	**25 IR 1548**
312 IAC 26-4-5	A	01-124	24 IR 4063	**25 IR 1549**

TITLE 326 AIR POLLUTION CONTROL BOARD

326 IAC 1-1-3	A	01-215	24 IR 4065	**25 IR 3054**
326 IAC 1-1-3.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-20.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-48	A	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-82.5	N	00-267	24 IR 3107	*CPH (25 IR 124)
326 IAC 1-3-4	A	01-215	24 IR 4066	**25 IR 3055**
326 IAC 1-4-1	A	01-215	24 IR 4067	**25 IR 3056**
	A	02-88	25 IR 3240	
326 IAC 1-6-1	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-2	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-3	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-4	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-5	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-6	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 2-1.1-3	A	00-267	24 IR 3107	*CPH (25 IR 124)
				25 IR 1550
326 IAC 2-1.1-7	A	01-215	24 IR 4067	**25 IR 3057**
326 IAC 2-1.1-9.5	N	00-267	24 IR 3115	*CPH (25 IR 124)
				25 IR 1557
326 IAC 2-2-1	A	00-267	24 IR 3115	*CPH (25 IR 124)
				25 IR 1557
326 IAC 2-2-2	A	00-267	24 IR 3121	*CPH (25 IR 124)
				25 IR 1564
326 IAC 2-2-3	A	00-267	24 IR 3122	*CPH (25 IR 124)
				25 IR 1564
326 IAC 2-2-4	A	00-267	24 IR 3122	*CPH (25 IR 124)
				25 IR 1565
326 IAC 2-2-5	A	00-267	24 IR 3123	*CPH (25 IR 124)
				25 IR 1566
326 IAC 2-2-6	A	00-267	24 IR 3124	*CPH (25 IR 124)
				25 IR 1567
326 IAC 2-2-7	A	00-267	24 IR 3125	*CPH (25 IR 124)
				25 IR 1568
326 IAC 2-2-9	A	00-267	24 IR 3125	*CPH (25 IR 124)
				25 IR 1568
326 IAC 2-2-12	A	00-267	24 IR 3126	*CPH (25 IR 124)
				25 IR 1569
326 IAC 2-2-14	A	00-267	24 IR 3126	*CPH (25 IR 124)
				25 IR 1569
326 IAC 2-2.5	N	00-267		**††25 IR 1571**
326 IAC 2-3-1	A	00-137		**††25 IR 6**
				*ERR (25 IR 1183)
326 IAC 2-3-2	A	00-137		**††25 IR 11**
326 IAC 2-3-3	A	00-137		**††25 IR 12**
326 IAC 2-4.1-1	A	01-215	24 IR 4068	**25 IR 3058**
326 IAC 2-5.1-3	A	01-215	24 IR 4069	**25 IR 3059**
326 IAC 2-6-1	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-2	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-3	A	01-249	24 IR 3702	*CPH (24 IR 4012)
326 IAC 2-6-4	A	01-249	24 IR 3703	*CPH (24 IR 4012)
326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
326 IAC 2-6.1-2	A	00-267	24 IR 3128	*CPH (25 IR 124)
				25 IR 1572
326 IAC 2-6.1-3	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-6.1-5	A	00-267	24 IR 3128	*CPH (25 IR 124)
				25 IR 1572
326 IAC 2-6.1-6	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-7-1	A	00-267	24 IR 3129	*CPH (25 IR 124)
				25 IR 1573
326 IAC 2-7-2	A	00-267	24 IR 3139	*CPH (25 IR 124)
				25 IR 1584
326 IAC 2-7-4	A	00-267	24 IR 3140	*CPH (25 IR 124)
				25 IR 1585
326 IAC 2-7-5	A	00-267	24 IR 3143	*CPH (25 IR 124)
				25 IR 1588
326 IAC 2-7-10.5	A	01-215	24 IR 4075	**25 IR 3065**
326 IAC 2-7-11	A	00-267	24 IR 3146	*CPH (25 IR 124)
				25 IR 1591

326 IAC 2-7-12	A	00-267	24 IR 3147	*CPH (25 IR 124)
				25 IR 1591
326 IAC 2-7-16	A	00-267	24 IR 3149	*CPH (25 IR 124)
				25 IR 1593
326 IAC 2-7-19	A	01-215	24 IR 4079	**25 IR 3069**
326 IAC 2-7-20	A	00-267	24 IR 3150	*CPH (25 IR 124)
				25 IR 1594
326 IAC 2-7-24	A	00-267	24 IR 3150	*CPH (25 IR 124)
				25 IR 1595
326 IAC 2-7-25	R	00-267	24 IR 3160	*CPH (25 IR 124)
				25 IR 1604
326 IAC 2-8-10	A	01-215	24 IR 4081	**25 IR 3071**
326 IAC 2-8-11.1	A	01-215	24 IR 4083	**25 IR 3072**
326 IAC 2-9-4	A	01-215	24 IR 4085	**25 IR 3075**
326 IAC 3-5-1	A	00-267	24 IR 3152	*CPH (25 IR 124)
				25 IR 1596
				*ERR (25 IR 1644)
326 IAC 4-1-4.1	A	02-88	25 IR 3240	
326 IAC 4-2-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
	A	00-267	24 IR 3153	*CPH (25 IR 124)
				25 IR 1597
326 IAC 4-2-2	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 5-1-1	A	00-267	24 IR 3153	*CPH (25 IR 124)
				25 IR 1597
326 IAC 6-1-1	A	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1598
				*ERR (25 IR 1644)
326 IAC 6-1-1.5	N	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
326 IAC 6-1-2	A	99-218	24 IR 395	*ARR (24 IR 3071)
				25 IR 710
326 IAC 6-1-3	A	99-218	24 IR 397	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-4	A	99-218	24 IR 398	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-5	A	99-218	24 IR 398	*ARR (24 IR 3071)
				25 IR 713
326 IAC 6-1-6	A	99-218	24 IR 399	*ARR (24 IR 3071)
				25 IR 714
326 IAC 6-1-8.1	A	99-218	24 IR 399	*ARR (24 IR 3071)
				25 IR 714
326 IAC 6-1-9	A	99-218	24 IR 400	*ARR (24 IR 3071)
				25 IR 715
326 IAC 6-1-10.1	A	99-218	24 IR 401	*ARR (24 IR 3071)
				25 IR 716
	A	99-73	25 IR 1959	**25 IR 4077**
326 IAC 6-1-11.1	A	99-218	24 IR 425	*ARR (24 IR 3071)
				25 IR 741
326 IAC 6-1-11.2	A	99-218	24 IR 430	*ARR (24 IR 3071)
				25 IR 746
326 IAC 6-1-12	A	99-218	24 IR 432	*ARR (24 IR 3071)
				25 IR 748
326 IAC 6-1-13	A	99-218	24 IR 437	*ARR (24 IR 3071)
				25 IR 754
326 IAC 6-1-14	A	99-218	24 IR 439	*ARR (24 IR 3071)
				25 IR 756
	A	02-122	26 IR 98	
326 IAC 6-1-15	A	99-218	24 IR 440	*ARR (24 IR 3071)
				25 IR 758
326 IAC 6-1-16	A	99-218	24 IR 442	*ARR (24 IR 3071)
				25 IR 759
326 IAC 6-1-17	A	99-218	24 IR 443	*ARR (24 IR 3071)
				25 IR 761
326 IAC 6-1-18	A	99-218	24 IR 444	*ARR (24 IR 3071)
				25 IR 762
326 IAC 6-2-1	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1598
326 IAC 6-3-1	A	99-265	24 IR 2748	*CPH (24 IR 4012)
				*CPH (25 IR 1195)
				*CPH (25 IR 1668)
				25 IR 3051
326 IAC 6-3-1.5	N	99-265		††**25 IR 3052**
326 IAC 6-3-2	A	99-265	24 IR 2749	*CPH (24 IR 4012)
				*CPH (25 IR 1195)
				*CPH (25 IR 1668)
				25 IR 3052
326 IAC 6-4-1	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-2	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-3	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-4	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-5	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-6	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-7	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-5-1	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1599
326 IAC 6-6-1	A	00-267	24 IR 3155	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-2	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-2-1				*ERR (25 IR 813)
326 IAC 7-3-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 8-1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1601
326 IAC 8-1-2	A	01-251	25 IR 2754	
326 IAC 8-2-9	A	02-88	25 IR 3241	
326 IAC 8-4-7		98-40		*ERR (25 IR 1183)
326 IAC 8-4-9				*ERR (25 IR 1906)
326 IAC 8-7-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-2	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-3	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-4	RA	00-44	24 IR 2756	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-5	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-6	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-7	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-8	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-9	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-10	RA	00-44	24 IR 2759	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-8-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8-3	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-3	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 8-9-1	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-2	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-3	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-4	RA	00-44	24 IR 2761	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-5	RA	00-44	24 IR 2763	*CPH (25 IR 2542)
				*CPH (25 IR 3208)

326 IAC 8-9-6	RA	00-44	24 IR 2765	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-1	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-2	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-3	RA	00-44	24 IR 2769	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-4	RA	00-44	24 IR 2770	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-5	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-6	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-7	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-8	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-9	RA	00-44	24 IR 2776	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-10	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-1	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-2	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1601
				*ERR (25 IR 1644)
326 IAC 10-0.5	N	98-235	24 IR 81	*AWR (25 IR 107)
326 IAC 10-1-1	A	98-235	24 IR 83	*AWR (25 IR 107)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1602
326 IAC 10-1-2	R	98-235	24 IR 91	*AWR (25 IR 107)
326 IAC 10-2	N	98-235	24 IR 84	*AWR (25 IR 107)
326 IAC 10-3	N	00-137	24 IR 2143	*CPH (24 IR 2722)
				25 IR 14
				*ERR (25 IR 1183)
326 IAC 10-4	N	00-137	24 IR 2146	*CPH (24 IR 2722)
				25 IR 18
				*ERR (25 IR 1183)
326 IAC 11-1-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1602
326 IAC 11-2-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-3-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-4-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-4-5	A	00-43	25 IR 2285	**26 IR 10**
326 IAC 11-5	R	99-177	25 IR 1984	**26 IR 10**
326 IAC 11-5-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-6-1	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 11-6-2	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-4	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-5	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-6	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-7	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-6-8	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-2	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-4	A	01-215	24 IR 4090	**25 IR 3081**
326 IAC 11-7-5	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-6	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-7	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-8	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-7-9	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-8	N	01-375	25 IR 1986	**25 IR 4100**
326 IAC 12-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 12-1-2	A	01-215	24 IR 4092	**25 IR 3083**
326 IAC 12-1-3	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-1.1-17.1	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-3-1	A	02-88	25 IR 3242	
326 IAC 14-1-3	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 14-2-1	A	01-215	24 IR 4093	**25 IR 3084**
326 IAC 15-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 17.1-1-2	A	01-215	24 IR 4094	**25 IR 3084**
326 IAC 18-2-1	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-2	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-3	RA	00-44	24 IR 2779	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-4	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-5	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-6	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-7	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-8	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-9	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-10.1	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-11	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-12	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-13	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-14	RA	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-2-1	A	01-215	24 IR 4094	**25 IR 3085**
326 IAC 19-3-2	A	01-215	24 IR 4095	**25 IR 3085**
326 IAC 19-3-3	A	01-215	24 IR 4097	**25 IR 3088**
326 IAC 19-3-5	A	01-215	24 IR 4098	**25 IR 3088**
326 IAC 20-1-1	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-1-3	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-2-1	A	01-215	24 IR 4099	**25 IR 3090**
326 IAC 20-3-1	A	01-215	24 IR 4100	**25 IR 3090**
326 IAC 20-4-1	A	01-215	24 IR 4100	**25 IR 3090**
326 IAC 20-5-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-6-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-7-1	A	01-215	24 IR 4101	**25 IR 3091**
326 IAC 20-8-1	A	01-215	24 IR 4101	**25 IR 3092**
326 IAC 20-9-1	A	01-215	24 IR 4102	**25 IR 3092**
326 IAC 20-10-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-11-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-12-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-2	A	01-215	24 IR 4103	**25 IR 3094**
326 IAC 20-13-4	A	01-215	24 IR 4104	**25 IR 3094**
326 IAC 20-13-5	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-6	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-7	A	01-215	24 IR 4105	**25 IR 3096**
326 IAC 20-13-8	A	01-215	24 IR 4106	**25 IR 3097**
326 IAC 20-14-1	A	01-215	24 IR 4107	**25 IR 3098**
326 IAC 20-15-1	A	01-215	24 IR 4108	**25 IR 3098**
326 IAC 20-16-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-17-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-18-1	A	01-215	24 IR 4109	**25 IR 3099**

326 IAC 20-19-1	A	01-215	24 IR 4109	**25 IR 3099**
326 IAC 20-20-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-21-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-22-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-23-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-24-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-25-1	A	02-55	26 IR 92	
326 IAC 20-25-3	A	02-55	26 IR 92	
326 IAC 20-25-4	A	02-55	26 IR 94	
326 IAC 20-25-5	A	02-55	26 IR 94	
326 IAC 20-25-7	A	02-55	26 IR 95	
326 IAC 20-26-1	A	01-215	24 IR 4111	**25 IR 3101**
326 IAC 20-28				*ERR (25 IR 813)
326 IAC 20-30-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-31-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-32-1	A	01-215	24 IR 4112	**25 IR 3102**
326 IAC 20-33-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-34-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-35-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-36-1	A	01-215	24 IR 4113	**25 IR 3103**
326 IAC 20-37-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-38-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-39-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-40-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-41-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-42-1	A	01-215	24 IR 4114	**25 IR 3106**
326 IAC 20-43-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-44-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-45-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-46-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-47-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 20-48	N	02-55	26 IR 95	
326 IAC 21-1-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 23-2-4	A	01-215	24 IR 4116	**25 IR 3108**
326 IAC 23-2-7	A	01-215	24 IR 4118	**25 IR 3109**

TITLE 327 WATER POLLUTION CONTROL BOARD

327 IAC 2-1-7	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-1.5-9	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-11	N	99-263	23 IR 865	*CPH (24 IR 3658)
				25 IR 1876
				*ERR (25 IR 1906)
327 IAC 7-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-10	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-11	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7.1	N	01-429	25 IR 1221	**25 IR 3717**
				*ERR (25 IR 4113)
327 IAC 8-2-1	A	00-266	24 IR 3706	**25 IR 1075**
	A	01-348	26 IR 101	
327 IAC 8-2-2	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4.1	A	00-266	24 IR 3711	**25 IR 1080**
327 IAC 8-2-5	A	01-348	26 IR 105	
327 IAC 8-2-5.1	A	00-266	24 IR 3716	**25 IR 1084**
327 IAC 8-2-5.3	A	00-266	24 IR 3718	**25 IR 1086**
	A	01-348	26 IR 107	
327 IAC 8-2-5.5	A	00-266	24 IR 3720	**25 IR 1089**
327 IAC 8-2-6	R	01-348	26 IR 152	
327 IAC 8-2-7	A	00-266	24 IR 3723	**25 IR 1092**
327 IAC 8-2-8.4	A	00-266	24 IR 3724	**25 IR 1092**
				*ERR (25 IR 2254)
327 IAC 8-2-8.5	A	01-348	26 IR 109	
327 IAC 8-2-10.2	A	00-266	24 IR 3726	**25 IR 1094**
				*ERR (25 IR 2254)
327 IAC 8-2-13	A	00-266	24 IR 3727	**25 IR 1096**
				*ERR (25 IR 2254)
	A	01-348	26 IR 110	
327 IAC 8-2-14	A	00-266	24 IR 3728	**25 IR 1096**
327 IAC 8-2-15	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-16	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-17	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-18	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-20	A	00-266	24 IR 3729	**25 IR 1097**
327 IAC 8-2-29	R	01-348	26 IR 152	
327 IAC 8-2-30	A	01-348	26 IR 110	
327 IAC 8-2-31	A	01-348	26 IR 111	
327 IAC 8-2-37	A	00-111	24 IR 1062	**25 IR 764**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-38	A	00-111	24 IR 1068	**25 IR 770**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-39	A	00-111	24 IR 1071	**25 IR 772**
327 IAC 8-2-40	A	00-111	24 IR 1072	**25 IR 774**
				*ERR (25 IR 2254)
327 IAC 8-2-41	A	00-111	24 IR 1074	**25 IR 776**
327 IAC 8-2-43	A	00-111	24 IR 1076	**25 IR 778**
327 IAC 8-2-44	A	00-111	24 IR 1077	**25 IR 779**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-46	A	00-111	24 IR 1082	**25 IR 783**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-48	N	01-348	26 IR 111	
327 IAC 8-2.1-3	A	00-266	24 IR 3729	**25 IR 1098**
	A	01-348	26 IR 112	
327 IAC 8-2.1-4	A	01-348	26 IR 114	
327 IAC 8-2.1-6	A	00-266	24 IR 3732	**25 IR 1100**
	A	01-348	26 IR 115	
327 IAC 8-2.1-7	N	00-266	24 IR 3741	**25 IR 1109**
327 IAC 8-2.1-8	N	00-266	24 IR 3741	**25 IR 1110**
	A	01-348	26 IR 121	
327 IAC 8-2.1-9	N	00-266	24 IR 3742	**25 IR 1110**
327 IAC 8-2.1-10	N	00-266	24 IR 3743	**25 IR 1111**
327 IAC 8-2.1-11	N	00-266	24 IR 3744	**25 IR 1112**
327 IAC 8-2.1-12	N	00-266	24 IR 3745	**25 IR 1113**
327 IAC 8-2.1-13	N	00-266	24 IR 3745	**25 IR 1113**
				*ERR (25 IR 2254)
327 IAC 8-2.1-14	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-15	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-16	N	00-266	24 IR 3746	**25 IR 1114**
				*ERR (25 IR 2254)
	A	01-348	26 IR 122	
327 IAC 8-2.1-17	N	00-266	24 IR 3750	**25 IR 1118**
				*ERR (25 IR 2254)
	A	01-348	26 IR 126	

327 IAC 8-2.5	N	01-348	26 IR 133	
327 IAC 8-2.6	N	01-348	26 IR 146	
327 IAC 16	N	00-235	24 IR 512	*CPH (24 IR 1686)
				*ARR (24 IR 3071)
				*CPH (24 IR 3098)
				*ARR (25 IR 385)
				25 IR 1883

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

328 IAC 1-1-1	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-2	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3.1	N	00-135	24 IR 2501	**25 IR 788**
328 IAC 1-1-4	A	00-135	24 IR 2502	**25 IR 787**
328 IAC 1-1-5	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-1-5.1	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-6	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-7	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8.5	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-9	A	00-135	24 IR 2502	**25 IR 789**
328 IAC 1-1-10	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-1-11	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-2-1	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-2	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-3	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-3-1	A	00-135	24 IR 2503	**25 IR 790**
328 IAC 1-3-2	A	00-135	24 IR 2504	**25 IR 790**
328 IAC 1-3-3	A	00-135	24 IR 2504	**25 IR 790**
				*ERR (25 IR 2254)
328 IAC 1-3-4	A	00-135	24 IR 2505	**25 IR 792**
328 IAC 1-3-5	A	00-135	24 IR 2505	**25 IR 792**
				*ERR (25 IR 2255)
328 IAC 1-3-6	A	00-135	24 IR 2511	**25 IR 798**
328 IAC 1-4-1	A	00-135	24 IR 2511	**25 IR 799**
328 IAC 1-5-1	A	00-135	24 IR 2512	**25 IR 801**
328 IAC 1-5-2	A	00-135	24 IR 2513	**25 IR 801**
328 IAC 1-5-3	N	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-1	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-2	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-7-1	A	00-135	24 IR 2514	**25 IR 802**
328 IAC 1-7-2	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-7-3	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 2	R	00-135	24 IR 2514	**25 IR 803**

TITLE 329 SOLID WASTE MANAGEMENT BOARD

329 IAC 3.1-1-7				*ERR (25 IR 813)
	A	01-289	25 IR 843	**25 IR 3111**
329 IAC 3.1-4-9.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-4-17.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-6-6	N	00-255	24 IR 2516	**25 IR 372**
329 IAC 3.1-7-2	A	01-289	25 IR 844	**25 IR 3112**
329 IAC 3.1-9-2	A	01-289	25 IR 845	**25 IR 3112**
329 IAC 3.1-10-2	A	01-289	25 IR 846	**25 IR 3113**
329 IAC 7-2-6	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-1	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-2	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 7-11-3	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 11-1-1				*ERR (25 IR 2741)
329 IAC 11-1-2				*ERR (25 IR 2741)
329 IAC 11-1-4				*ERR (25 IR 2741)
329 IAC 11-2-1				*ERR (25 IR 2741)
329 IAC 11-2-5				*ERR (25 IR 2741)
329 IAC 11-2-7				*ERR (25 IR 2741)
329 IAC 11-2-9				*ERR (25 IR 2741)
329 IAC 11-2-26				*ERR (25 IR 2741)
329 IAC 11-2-39				*ERR (25 IR 2741)
329 IAC 11-3-1				*ERR (25 IR 2741)
329 IAC 11-4-4				*ERR (25 IR 2741)
329 IAC 11-9-1	A	01-207	24 IR 3162	**25 IR 1126**
329 IAC 11-9-2	A	01-207	24 IR 3163	**25 IR 1126**
				*ERR (25 IR 1906)
				*ERR (25 IR 2255)
329 IAC 11-9-3	A	01-207	24 IR 3164	**25 IR 1128**
329 IAC 11-9-4	A	01-207	24 IR 3165	**25 IR 1128**
329 IAC 11-9-5	A	01-207	24 IR 3165	**25 IR 1129**
329 IAC 11-10-1				*ERR (25 IR 2741)
329 IAC 11-11-1	A	01-207	24 IR 3166	**25 IR 1129**
329 IAC 11-11-2	A	01-207	24 IR 3166	**25 IR 1130**
329 IAC 11-11-3	A	01-207	24 IR 3166	**25 IR 1130**
329 IAC 11-11-4	A	01-207	24 IR 3167	**25 IR 1130**
329 IAC 11-11-5	A	01-207	24 IR 3167	**25 IR 1130**
329 IAC 11-11-6	A	01-207	24 IR 3167	**25 IR 1131**
329 IAC 11-14-1	A	01-207	24 IR 3167	**25 IR 1131**
329 IAC 11-15-1				*ERR (25 IR 2741)
329 IAC 11-15-3				*ERR (25 IR 2741)
329 IAC 11-15-5				*ERR (25 IR 2741)
329 IAC 11-17-1				*ERR (25 IR 2741)
329 IAC 11-21-1				*ERR (25 IR 2741)
329 IAC 11-21-2				*ERR (25 IR 2741)

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

345 IAC 1-3-1.5	A	01-413	25 IR 1996	
345 IAC 1-3-3	A	02-107	25 IR 4170	
345 IAC 1-3-4	A	02-107	25 IR 4171	
345 IAC 1-3-8	R	02-107	25 IR 4182	
345 IAC 1-3-11	A	02-107	25 IR 4171	
345 IAC 1-3-12	A	02-107	25 IR 4172	
345 IAC 1-3-13	A	02-107	25 IR 4172	
345 IAC 1-3-14	A	02-107	25 IR 4173	
345 IAC 1-3-15	A	02-107	25 IR 4173	
345 IAC 1-3-16	R	02-107	25 IR 4182	
345 IAC 1-3-16.5	N	02-107	25 IR 4174	
345 IAC 1-3-30	A	01-413	25 IR 1997	
			25 IR 2774	
345 IAC 1-4-1	R	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-2	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-3	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-5-1	A	01-1	24 IR 2805	**25 IR 374**
345 IAC 1-5-2	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-5-3	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-6-1	R	01-37	24 IR 4121	**25 IR 1608**
345 IAC 1-6-1.5	N	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-2	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-3	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 2-6-8	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 2-7-1	A	01-413	25 IR 1998	
			25 IR 2775	
345 IAC 2-7-3	A	01-413	25 IR 1999	
			25 IR 2776	
345 IAC 2-7-4	A	01-413	25 IR 2000	
			25 IR 2777	
345 IAC 2-7-5	A	01-413	25 IR 2001	
			25 IR 2778	
345 IAC 3-5.1-1.2	A	02-107	25 IR 4175	
345 IAC 3-5.1-1.5	A	02-107	25 IR 4176	
345 IAC 3-5.1-2	A	02-107	25 IR 4176	
345 IAC 3-5.1-3	A	02-107	25 IR 4176	
345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	
345 IAC 3-5.1-4	A	02-107	25 IR 4177	
345 IAC 3-5.1-6	A	02-107	25 IR 4177	
345 IAC 3-5.1-7	A	02-107	25 IR 4178	
345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	
345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	
345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	
345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	
345 IAC 3-5.1-9	R	02-107	25 IR 4182	

345 IAC 3-5.1-10	A	02-107	25 IR 4181	
345 IAC 3-5.1-12	R	02-107	25 IR 4182	
345 IAC 3-5.1-14	R	02-107	25 IR 4182	
345 IAC 3-5.1-15	R	02-107	25 IR 4182	
345 IAC 5-1-3	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 5-1-4	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 7-3.5-1	R	01-166	24 IR 4125	
345 IAC 7-3.5-2	A	01-166	24 IR 4122	**25 IR 1609**
345 IAC 7-3.5-3	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5.5	N	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-6	A	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-8	A	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-8.5	N	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-13	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 7-3.5-14	A	01-333	25 IR 1990	**25 IR 3741**
345 IAC 7-5-1	A	02-126	25 IR 4182	
345 IAC 7-5-2.1	N	02-126	25 IR 4183	
345 IAC 7-5-2.5	A	02-126	25 IR 4183	
345 IAC 7-5-3	R	02-126	25 IR 4187	
345 IAC 7-5-4	R	02-126	25 IR 4187	
345 IAC 7-5-5	R	02-126	25 IR 4187	
345 IAC 7-5-6	A	02-126	25 IR 4184	
345 IAC 7-5-7	A	02-126	25 IR 4184	
345 IAC 7-5-8	R	02-126	25 IR 4187	
345 IAC 7-5-9	A	02-126	25 IR 4184	
345 IAC 7-5-11	A	02-126	25 IR 4185	
345 IAC 7-5-15.1	A	02-126	25 IR 4185	
345 IAC 7-5-16	R	02-126	25 IR 4187	
345 IAC 7-5-16.1	R	02-126	25 IR 4187	
345 IAC 7-5-21	R	02-126	25 IR 4187	
345 IAC 7-5-22	A	02-126	25 IR 4186	
345 IAC 7-5-24	A	02-126	25 IR 4186	
345 IAC 7-5-25.7	R	02-126	25 IR 4187	
345 IAC 7-5-26	R	02-126	25 IR 4187	
345 IAC 7-5-27	R	02-126	25 IR 4187	
345 IAC 7-5-28	A	02-126	25 IR 4186	
345 IAC 7-7-1.5	N	01-377	25 IR 1991 25 IR 4166	*ARR (25 IR 3770)
345 IAC 7-7-2	A	01-377	25 IR 1991 25 IR 4166	*ARR (25 IR 3770)
345 IAC 7-7-3	A	01-377	25 IR 1992 25 IR 4167	*ARR (25 IR 3770)
345 IAC 7-7-3.5	N	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-4	A	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-5	A	01-377	25 IR 1993 25 IR 4168	*ARR (25 IR 3770)
345 IAC 7-7-6	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-7	A	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-8	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-9	R	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 7-7-10	A	01-377	25 IR 1994 25 IR 4169	*ARR (25 IR 3770)
345 IAC 8-2-1.1	A	01-392	25 IR 2758	
345 IAC 8-2-1.5	N	01-392	25 IR 2760	
345 IAC 8-2-1.7	N	01-392	25 IR 2760	
345 IAC 8-2-1.9	N	01-392	25 IR 2761	
345 IAC 8-2-2	A	01-392	25 IR 2762	
345 IAC 8-2-3	A	01-392	25 IR 2764	
345 IAC 8-2-3.5	N	01-392	25 IR 2766	
345 IAC 8-2-4	A	01-392	25 IR 2767	
345 IAC 8-3-1	A	01-392	25 IR 2769	
345 IAC 8-3-2	A	01-392	25 IR 2770	
345 IAC 8-3-3	N	01-392	25 IR 2770	
345 IAC 8-3-4	N	01-392	25 IR 2771	
345 IAC 8-4-1	A	01-392	25 IR 2771	
345 IAC 9-2.1-1	A	02-127	25 IR 4187	
345 IAC 10-2.1-1	A	02-127	25 IR 4188	

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

355 IAC 4-0.5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-1	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2-1	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-2	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-3	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-4	R	01-71	24 IR 2809	**25 IR 378**
355 IAC 4-2-5	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-6	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-7	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-8	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-3	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-4	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-6	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5-1-1	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-1.5	N	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-3	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-4	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-5	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-6	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-7.5	N	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-10	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-11	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-13	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-14	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-1-15	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-2	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-3	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-4	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-5	A	01-294	25 IR 437	**25 IR 2215**
355 IAC 5-2-6	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-7	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-8	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-9	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-10	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-11	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-12	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-2-13	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-3-1	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-3-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-1	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-2	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-3	A	01-294	25 IR 440	**25 IR 2218**
355 IAC 5-4-4	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-5	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-7	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-8	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-4-9	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-5-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-5-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-7	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-8-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-8-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 6	N	01-335	25 IR 443	*ARR (25 IR 1907) **25 IR 2444** *ERR (25 IR 2521)

TITLE 357 INDIANA PESTICIDE REVIEW BOARD				
357 IAC 1-1	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-3	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-4	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-5	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-6	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-7	RA	01-49	24 IR 3222	**25 IR 936**
TITLE 360 STATE SEED COMMISSIONER				
360 IAC 1	RA	01-233	25 IR 519	**25 IR 1269**
TITLE 365 CREAMERY EXAMINING BOARD				
365 IAC 2-1-4				*ERR (25 IR 384)
365 IAC 2-1-6				*ERR (25 IR 384)
365 IAC 2-1-13				*ERR (25 IR 384)
365 IAC 2-1-14				*ERR (25 IR 384)
365 IAC 2-1-19				*ERR (25 IR 384)
365 IAC 2-1-22				*ERR (25 IR 384)
365 IAC 2-2-1				*ERR (25 IR 384)
TITLE 370 STATE EGG BOARD				
370 IAC 1-1	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-1-1	A	01-419	26 IR 153	
370 IAC 1-1-2	A	01-419	26 IR 153	
370 IAC 1-1-3	A	01-419	26 IR 153	
370 IAC 1-1-4	A	01-419	26 IR 153	
370 IAC 1-1-5	A	01-419	26 IR 153	
370 IAC 1-2	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-2-1	A	01-419	26 IR 154	
370 IAC 1-2-2	A	01-419	26 IR 154	
370 IAC 1-2-3	N	01-419	26 IR 154	
370 IAC 1-3	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-3-1	A	01-419	26 IR 154	
370 IAC 1-3-2	A	01-419	26 IR 154	
370 IAC 1-3-3	A	01-419	26 IR 154	
370 IAC 1-3-4	A	01-419	26 IR 155	
370 IAC 1-4	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-4-1	A	01-419	26 IR 155	
370 IAC 1-4-2	A	01-419	26 IR 155	
370 IAC 1-4-3	A	01-419	26 IR 156	
370 IAC 1-5	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-5-1	A	01-419	26 IR 156	
370 IAC 1-6	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-6-1	A	01-419	26 IR 156	
370 IAC 1-8	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-8-1	A	01-419	26 IR 156	
370 IAC 1-9	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-9-1	A	01-419	26 IR 156	
370 IAC 1-10	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-10-1	A	01-419	26 IR 156	
370 IAC 1-10-2	A	01-419	26 IR 157	
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES				
405 IAC 1-8-3	A	00-249	24 IR 1381	*NRA (24 IR 3097)
405 IAC 1-9	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10.5-1	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-2	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-3	A	00-249	24 IR 1384	*NRA (24 IR 3097) **25 IR 57** *ERR (25 IR 1906)
405 IAC 1-10.5-4	A	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-11	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128)
405 IAC 1-12-2	A	01-420	25 IR 1690	*NRA (25 IR 2541) **25 IR 3121**
	A	02-16	25 IR 2791	*NRA (25 IR 4128)
405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128)
405 IAC 1-12-5	A	01-420	25 IR 1691	*NRA (25 IR 2541) **25 IR 3123**
	A	02-16	25 IR 2794	*NRA (25 IR 4128)
405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128)
405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128)
405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128)
405 IAC 1-12-9	A	01-420	25 IR 1693	*NRA (25 IR 2541) **25 IR 3124**
	A	02-16	25 IR 2797	*NRA (25 IR 4128)
405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
405 IAC 1-12-22	A	01-420	25 IR 1693	*NRA (25 IR 2541) **25 IR 3125**
405 IAC 1-12-24	A	01-172	24 IR 3179	*NRA (25 IR 401) **25 IR 381**
	A	02-16	25 IR 2802	*NRA (25 IR 4128)
405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
405 IAC 1-14.5-13	A	02-144	25 IR 3826	
405 IAC 1-14.5-14	A	02-144	25 IR 3827	
405 IAC 1-14.5-15	A	02-144	25 IR 3827	
405 IAC 1-14.6-2	A	00-277	24 IR 3169	*ARR (24 IR 3992)
			24 IR 4126	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2462**
	A	02-13	25 IR 2779	*NRA (26 IR 61)
405 IAC 1-14.6-3	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4128	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2465**
405 IAC 1-14.6-4	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4129	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2465**
	A	02-13	25 IR 2782	*NRA (26 IR 61)
405 IAC 1-14.6-5	A	00-277	24 IR 3174	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2467**
405 IAC 1-14.6-6	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2468**
	A	02-13	25 IR 2784	*NRA (26 IR 61)
405 IAC 1-14.6-7	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4132	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666) **25 IR 2468**
	A	02-13	25 IR 2785	*NRA (26 IR 61)

405 IAC 1-14.6-9	A	00-277	24 IR 3176	*ARR (24 IR 3992)
			24 IR 4133	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
	A	02-13	25 IR 2786	*NRA (26 IR 61)
405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61)
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61)
405 IAC 1-14.6-20	A	00-277	24 IR 3177	*ARR (24 IR 3992)
			24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61)
405 IAC 1-15-1	A	00-277	24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-5	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-6	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-16-2	A	02-214	26 IR 158	
405 IAC 1-16-4	A	02-214	26 IR 159	
405 IAC 1-18	N	01-304	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 2-3-1	R	01-206	24 IR 4139	*NRA (25 IR 1666)
				25 IR 2475
405 IAC 2-3-1.1	A	01-206	24 IR 4137	*NRA (25 IR 1666)
				25 IR 2472
405 IAC 2-3-1.2	N	01-175	24 IR 4136	*NRA (25 IR 1666)
				*ARR (25 IR 2256)
				*NRA (25 IR 2541)
				25 IR 2726
				*ERR (26 IR 35)
405 IAC 2-3-3	A	01-393	25 IR 1683	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3114
				*ERR (25 IR 3769)
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804)
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61)
405 IAC 2-8-1.1	N	02-87	25 IR 2805	*NRA (26 IR 61)
405 IAC 2-9	N	01-393	25 IR 1684	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3115
				*ERR (25 IR 3769)
				*ERR (26 IR 35)
405 IAC 2-10	N	02-145	25 IR 3829	
405 IAC 5-2-17	A	01-58	24 IR 2518	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-4	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-10	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-3-11	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-12	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 60
405 IAC 5-3-13	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-7-1	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-8-3	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-12-1	A	02-49	25 IR 2555	
405 IAC 5-12-2	R	02-49	25 IR 2556	
405 IAC 5-12-3	A	02-49	25 IR 2556	
405 IAC 5-12-4	R	02-49	25 IR 2556	
405 IAC 5-12-5	R	02-49	25 IR 2556	
405 IAC 5-12-6	R	02-49	25 IR 2556	
405 IAC 5-12-7	R	02-49	25 IR 2556	
405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61)
405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61)
405 IAC 5-14-2.5	N	02-140	25 IR 3823	*NRA (26 IR 61)
405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61)
405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61)
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61)
405 IAC 5-19-1	A	01-301	25 IR 3811	
405 IAC 5-19-7	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-19-10	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-20-8	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 61
				*ERR (25 IR 1184)
405 IAC 5-23-4	A	01-58	24 IR 2521	*ARR (24 IR 3992)
405 IAC 5-23-5	A	01-58	24 IR 2522	*ARR (24 IR 3992)
405 IAC 5-24-4	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-303	25 IR 847	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
				*ERR (26 IR 35)
405 IAC 5-24-6	A	01-22	24 IR 2181	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62)
405 IAC 5-24-8.5	N	01-22	24 IR 2181	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-24-8.6	N	01-22		††**25 IR 1614**
				*ERR (25 IR 2255)

405 IAC 5-24-11	N	01-22		**††25 IR 1614**
405 IAC 5-24-12	N	01-22		**††25 IR 1614**
405 IAC 5-29-1	A	01-58	24 IR 2522	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 5-31-8	A	01-214	24 IR 3756	*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2475
405 IAC 5-34-1	A	02-214	26 IR 159	
405 IAC 5-34-2	A	02-214	26 IR 159	
405 IAC 5-34-3	A	02-214	26 IR 160	
405 IAC 5-34-4	A	02-214	26 IR 160	
405 IAC 5-34-4.1	N	02-214	26 IR 162	
405 IAC 5-34-4.2	N	02-214	26 IR 162	
405 IAC 5-34-5	A	02-214	26 IR 162	
405 IAC 5-34-6	A	02-214	26 IR 162	
405 IAC 5-34-7	A	02-214	26 IR 163	
405 IAC 5-34-12	A	01-302	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 5-37-3	A	01-58	24 IR 2523	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)
405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885)
				*NRA (26 IR 61)

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

407 IAC 2-2-5	A	02-85	25 IR 2805	**25 IR 4103**
407 IAC 2-3-1	A	02-85	25 IR 2806	**25 IR 4103**
407 IAC 2-3-2	A	02-85	25 IR 2806	**25 IR 4103**

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.3				*ERR (25 IR 106)
410 IAC 5-10.1	RA	01-240	25 IR 187	**25 IR 1270**
410 IAC 6-2	R	02-142	25 IR 4197	
410 IAC 6-2.1	N	02-142	25 IR 4188	
410 IAC 6-7	R	01-243	25 IR 2015	**25 IR 3757**
				*AROC (25 IR 3884)
410 IAC 6-7.1	N	01-243	25 IR 2002	**25 IR 3743**
				*ERR (25 IR 3769)
				*AROC (25 IR 3884)
				*ERR (26 IR 36)
410 IAC 6-7.2	N	01-243	25 IR 2007	**25 IR 3749**
				*ERR (25 IR 3769)
				*AROC (25 IR 3884)
				*ERR (26 IR 36)
410 IAC 7-21	N	01-7	24 IR 2809	**25 IR 1615**
				*ERR (25 IR 1644)
				*AROC (25 IR 1734)
410 IAC 15-1.5-4	A	02-43	26 IR 164	
410 IAC 15-1.5-5	A	02-43	26 IR 166	
410 IAC 15-1.5-8	A	01-169	25 IR 154	**25 IR 1135**
410 IAC 15-1.7-1	A	01-169	25 IR 156	**25 IR 1137**
410 IAC 15-2.5-7	A	01-168	25 IR 152	**25 IR 1133**
410 IAC 15-2.7-1	A	01-168	25 IR 153	**25 IR 1134**
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	
410 IAC 16.2-1-3	R	02-89	25 IR 3276	
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-5	R	02-89	25 IR 3276	
410 IAC 16.2-1-6	R	02-89	25 IR 3276	
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-7	R	02-89	25 IR 3276	
410 IAC 16.2-1-8	R	02-89	25 IR 3276	
410 IAC 16.2-1-9	R	02-89	25 IR 3276	
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-11	R	02-89	25 IR 3277	
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	
410 IAC 16.2-1-14	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	
410 IAC 16.2-1-16	R	02-89	25 IR 3277	
410 IAC 16.2-1-17	R	02-89	25 IR 3277	

410 IAC 16.2-1-18	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-19	R	02-89	25 IR 3277	
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-20	R	02-89	25 IR 3277	
410 IAC 16.2-1-21	R	02-89	25 IR 3277	
410 IAC 16.2-1-22	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-23	R	02-89	25 IR 3277	
410 IAC 16.2-1-24	R	02-89	25 IR 3277	
410 IAC 16.2-1-25	R	02-89	25 IR 3277	
410 IAC 16.2-1-26	R	02-89	25 IR 3277	
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-27	R	02-89	25 IR 3277	
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-28	R	02-89	25 IR 3277	
410 IAC 16.2-1-29	R	02-89	25 IR 3277	
410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-30	R	02-89	25 IR 3277	
410 IAC 16.2-1-31	R	02-89	25 IR 3277	
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-33	R	02-89	25 IR 3277	
410 IAC 16.2-1-34	R	02-89	25 IR 3277	
410 IAC 16.2-1-35	R	02-89	25 IR 3277	
410 IAC 16.2-1-36	R	02-89	25 IR 3277	
410 IAC 16.2-1-37	R	02-89	25 IR 3277	
410 IAC 16.2-1-38	R	02-89	25 IR 3277	
410 IAC 16.2-1-39	R	02-89	25 IR 3277	
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-42	R	02-89	25 IR 3277	
410 IAC 16.2-1-44	R	02-89	25 IR 3277	
410 IAC 16.2-1-45	R	02-89	25 IR 3277	
410 IAC 16.2-1-46	R	02-89	25 IR 3277	
410 IAC 16.2-1-47	R	02-89	25 IR 3277	
410 IAC 16.2-1-48	R	02-89	25 IR 3277	
410 IAC 16.2-1.1	N	02-89	25 IR 3244	
410 IAC 16.2-3.1-21				*ERR (25 IR 2522)
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	
410 IAC 16.2-5-2	A	02-89	25 IR 3269	
410 IAC 16.2-5-3	R	02-89	25 IR 3277	
410 IAC 16.2-5-4	A	02-89	25 IR 3270	
410 IAC 16.2-5-5	R	02-89	25 IR 3277	
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	
410 IAC 16.2-5-6	A	02-89	25 IR 3272	
410 IAC 16.2-5-7	R	02-89	25 IR 3277	
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-8	R	02-89	25 IR 3277	
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-9	R	02-89	25 IR 3277	
410 IAC 16.2-5-10	R	02-89	25 IR 3277	
410 IAC 16.2-5-11	R	02-89	25 IR 3277	
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	
410 IAC 16.2-5-12	N	02-89	25 IR 3276	
410 IAC 17-1.1	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-2	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-3	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-4	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-5	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-6	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-7	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-8	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-9	N	01-159	25 IR 140	**25 IR 2477**
				*ERR (25 IR 2522)
410 IAC 17-10	N	01-159	25 IR 143	**25 IR 2481**
410 IAC 17-11	N	01-159	25 IR 144	**25 IR 2482**
410 IAC 17-12	N	01-159	25 IR 145	**25 IR 2483**
410 IAC 17-13	N	01-159	25 IR 148	**25 IR 2486**
410 IAC 17-14	N	01-159	25 IR 149	**25 IR 2487**
				*ERR (25 IR 2522)
410 IAC 17-15	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 17-16	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 21-3	N	01-280	25 IR 2016	**25 IR 3757**
410 IAC 23-1	R	01-339	25 IR 2020	**25 IR 3761**
410 IAC 23-2	N	01-339	25 IR 2018	**25 IR 3759**

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2	N	01-281	25 IR 1244	**25 IR 2728**
				*ERR (26 IR 36)
412 IAC 2-1-1	A	02-41	25 IR 4198	
412 IAC 2-1-2.1	N	02-41	25 IR 4198	
412 IAC 2-1-2.2	N	02-41	25 IR 4198	
412 IAC 2-1-6	A	02-41	25 IR 4199	
412 IAC 2-1-8	A	02-41	25 IR 4199	
412 IAC 2-1-10	N	02-41	25 IR 4199	
412 IAC 2-1-11	N	02-41	25 IR 4200	
412 IAC 2-1-12	N	02-41	25 IR 4200	
412 IAC 2-1-13	N	02-41	25 IR 4200	
412 IAC 2-1-14	N	02-41	25 IR 4200	

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 1.1-1-2	A	01-422	25 IR 1694	**25 IR 3126**
				*ERR (26 IR 36)
431 IAC 2.1	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 3.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 4	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 5	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 6	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)
440 IAC 4.4-1-1	A	01-263	25 IR 157	**25 IR 2220**
440 IAC 4.4-2-1	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-2	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-3	A	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-3.5	N	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-4	A	01-263	25 IR 160	**25 IR 2223**
440 IAC 4.4-2-4.5	N	01-263	25 IR 160	**25 IR 2223**
440 IAC 4.4-2-5	A	01-263	25 IR 161	**25 IR 2224**
440 IAC 4.4-2-6	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-7	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-8	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-9	A	01-263	25 IR 163	**25 IR 2226**
440 IAC 4.4-2-11	N	01-263	25 IR 163	**25 IR 2226**
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62)
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62)
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62)
440 IAC 6-1-1	A	01-356	25 IR 867	*NRA (25 IR 2745)
				25 IR 3145

440 IAC 6-2-1	A	01-356	25 IR 867	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-2	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-3	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-4	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-5	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-6	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-7	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-8	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 6-2-9	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 7	R	01-299	25 IR 866	*NRA (25 IR 2745) **25 IR 3145**
440 IAC 7-2-16	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-17	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-18	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7.5	N	01-299	25 IR 849	*NRA (25 IR 2745) **25 IR 3127**
440 IAC 9-2-4	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-5	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-6	N	01-53	24 IR 3758	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-7	N	01-357	25 IR 2020	*NRA (25 IR 3207) **25 IR 3762**
440 IAC 9-2-8	N	01-357	25 IR 2022	*NRA (25 IR 3207) **25 IR 3763**
440 IAC 9-2-9	N	01-357	25 IR 2023	*NRA (25 IR 3207) **25 IR 3764**
440 IAC 9-2-10	N	02-106	25 IR 4201	
440 IAC 9-2-11	N	02-106	25 IR 4202	
440 IAC 9-2-12	N	02-106	25 IR 4203	

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-1-1	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-2	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-3	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-4	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-5	RA	00-299	24 IR 1949	**25 IR 1272**
460 IAC 1-1-6	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-7	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-8	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-9	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-10	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-11	RA	00-299	24 IR 1949	**25 IR 1275**
460 IAC 1-1-12	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-13	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-14	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-15	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-1-16	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-2-1	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-2	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-3	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-4	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-5	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-6	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-7	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-8	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-9	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-10	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-11	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-12	RA	00-300	24 IR 1956	**25 IR 1282**
460 IAC 1-3.6	N	00-286	24 IR 3759	**25 IR 1140**
460 IAC 1-4	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-5	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-6	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-8	N	01-337	25 IR 2557	
460 IAC 2-1	R	00-215	24 IR 2545	*NRA (24 IR 4011) **25 IR 82**
460 IAC 2-3-1	A	02-9	25 IR 2286	
460 IAC 2-3-2	A	02-9	25 IR 2286	
460 IAC 2-3-3	A	02-9	25 IR 2287	
460 IAC 2-4	N	00-215	24 IR 2526	*NRA (24 IR 4011) **25 IR 62** *ERR (25 IR 1645)
460 IAC 2-5	N	01-334	25 IR 871	*NRA (25 IR 1925) **25 IR 3765**
460 IAC 3.5-2-1	A	01-204	25 IR 163	*NRA (25 IR 1666) **25 IR 2226**
460 IAC 6	N	02-46	25 IR 3832	

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 2-5-1	RA	01-60	24 IR 2571	*NRA (25 IR 401) **25 IR 1281**
470 IAC 2-5-2	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-3	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-4	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-5	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-6	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**
470 IAC 2-5-7	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**
470 IAC 2-5-8	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-9	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-10	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-11	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-12	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-13	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-14	RA	01-60	24 IR 2575	*NRA (25 IR 401) **25 IR 1287**
470 IAC 2-5-15	RA	01-60	24 IR 2575	*NRA (25 IR 401) **25 IR 1287**
470 IAC 2-5-16	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-17	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-18	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-19	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-20	RA	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-21	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-22	RA	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**

470 IAC 3-4.1	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.2	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.7	N	01-205	24 IR 4140	*AWR (25 IR 2524)
470 IAC 3-10-1	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-2	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-3	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-5	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-6	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-7	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-8	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3.1-12-2	A	02-74	26 IR 167	
470 IAC 3.1-12-7	N	02-74	26 IR 168	
470 IAC 10.1-1-2	A	01-173	24 IR 3760	
470 IAC 10.2	N	01-174	24 IR 3762	
470 IAC 11.1-1-5	A	02-203	26 IR 169	

TITLE 480 VIOLENT CRIME COMPENSATION DIVISION

480 IAC 1-1-1	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-2	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-3	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-4.1	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-5	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-6	A	01-194	25 IR 166	*CPH (25 IR 831)
480 IAC 1-1-7	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-8	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-9	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-10	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-1	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-2	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-3	A	01-194	25 IR 170	*CPH (25 IR 831)

TITLE 511 INDIANA STATE BOARD OF EDUCATION

511 IAC 1-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2.5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-8	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 2-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-1-2	A	02-67	25 IR 2807	
511 IAC 5-1-3.5	A	02-67	25 IR 2807	
511 IAC 5-1-5	A	02-67	25 IR 2807	
511 IAC 5-1-6	A	02-67	25 IR 2807	
511 IAC 5-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-2-1	A	01-203	24 IR 3768	**25 IR 1147**
511 IAC 5-2-3	A	01-203	24 IR 3769	**25 IR 1148**
	A	02-170	25 IR 4204	
511 IAC 5-2-4	A	01-162	24 IR 3764	**25 IR 1147**
	A	02-170	25 IR 4205	
511 IAC 6-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-2-1	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-7-6.5	A	02-177	25 IR 4205	
511 IAC 6-7-9	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-8-4	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-10	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6.1-0.5	N	01-212	24 IR 3769	**25 IR 2231**
511 IAC 6.1-1-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-2	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-3	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3771	**25 IR 2233**
511 IAC 6.1-1-4	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-5	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2234**
511 IAC 6.1-1-7	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-8	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-9	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-10	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-1-11	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-11.5	A	01-212	24 IR 3774	**25 IR 2236**
				*ERR (26 IR 36)
511 IAC 6.1-1-12	RA	01-164	24 IR 3790	**25 IR 938**
	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-1-13	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-13.5	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-14	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	
511 IAC 6.1-1-15	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-4	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-3-1	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-4	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-4-1	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-0.5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-1	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-2.5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-7	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-9	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-10	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5.1-1	A	01-33	24 IR 2182	*CPH (24 IR 2724)
				25 IR 1141
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206	
	A	02-178	25 IR 4207	
511 IAC 6.1-5.1-9	A	01-33	24 IR 2182	*CPH (24 IR 2724)
				25 IR 1141
511 IAC 6.1-5.1-10.1	A	01-33	24 IR 2183	*CPH (24 IR 2724)
				25 IR 1143
511 IAC 6.1-5.1-11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-7	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-7-2	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-9	RA	01-164	24 IR 3790	**25 IR 938**

511 IAC 6.1-10	RA	01-164	24 IR 3790	
511 IAC 6.2-4	N	00-163	24 IR 1915	**25 IR 82**
511 IAC 6.2-6	N	01-163	24 IR 3765	**25 IR 2227**
511 IAC 7-17-10	A	01-433	25 IR 1696	**25 IR 3149**
511 IAC 7-18-3	A	01-433	25 IR 1696	**25 IR 3150**
511 IAC 7-19-1	A	01-433	25 IR 1697	**25 IR 3150**
511 IAC 7-19-2	A	01-433	25 IR 1698	**25 IR 3152**
511 IAC 7-22-1	A	01-433	25 IR 1699	**25 IR 3153**
511 IAC 7-23-2	A	01-433	25 IR 1700	**25 IR 3154**
511 IAC 7-25-3	A	01-433	25 IR 1701	**25 IR 3155**
511 IAC 7-25-4	A	01-433	25 IR 1702	**25 IR 3156**
511 IAC 7-25-5	A	01-433	25 IR 1704	**25 IR 3158**
511 IAC 7-25-6	A	01-433	25 IR 1705	**25 IR 3158**
511 IAC 7-25-7	A	01-433	25 IR 1706	**25 IR 3159**
511 IAC 7-27-4	A	01-433	25 IR 1706	**25 IR 3160**
511 IAC 7-27-5	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-7	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-9	A	01-433	25 IR 1708	**25 IR 3162**
511 IAC 7-27-12	A	01-433	25 IR 1709	**25 IR 3163**
511 IAC 7-28-3	A	01-433	25 IR 1711	**25 IR 3164**
511 IAC 7-29-5	A	01-433	25 IR 1712	**25 IR 3165**
511 IAC 7-29-6	A	01-433	25 IR 1712	**25 IR 3166**
511 IAC 7-29-8	A	01-433	25 IR 1713	**25 IR 3167**
511 IAC 7-30-1	A	01-433	25 IR 1714	**25 IR 3168**
511 IAC 7-30-3	A	01-433	25 IR 1715	**25 IR 3169**
511 IAC 7-30-4	A	01-433	25 IR 1717	**25 IR 3171**
511 IAC 7-30-6	A	01-433	25 IR 1719	**25 IR 3173**
511 IAC 9	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 10-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12-2-7	A	01-6	24 IR 1917	**25 IR 84**

TITLE 515 PROFESSIONAL STANDARDS BOARD

515 IAC 1	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 1-2-19	A	00-254	24 IR 1103	*CPH (25 IR 124)
				25 IR 1148
515 IAC 1-4-1	A	02-75	25 IR 4207	
515 IAC 1-4-2	A	02-75	25 IR 4208	
515 IAC 1-6	N	01-171	25 IR 2288	**25 IR 3174**
				*ERR (26 IR 36)
515 IAC 2	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 3	N	02-7	25 IR 2290	**25 IR 3176**
				*ERR (26 IR 37)
515 IAC 4	N	02-8	25 IR 2292	*ARR (25 IR 3183)
				*ARR (25 IR 3770)
515 IAC 5	N	02-80	25 IR 2808	

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

540 IAC 1-1-3	A	01-428	25 IR 2024	*ARR (25 IR 3183)
				25 IR 4104
540 IAC 1-1-4	A	01-428	25 IR 2024	*ARR (25 IR 3183)
				25 IR 4104
540 IAC 1-1-6	A	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4104
540 IAC 1-1-7	A	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4104
540 IAC 1-1-7.5	N	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-9	A	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-10.5	N	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-11.5	A	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-11.6	N	01-428	25 IR 2025	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-12	A	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-13	A	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4105
540 IAC 1-1-14	A	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-1-16	A	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-1-16.5	N	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-3-2	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-5-1	A	01-428	25 IR 2026	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-5-2	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-6-1	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-6-2	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-7-1	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4106
540 IAC 1-7-2	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-7-3	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-8-1	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-8-2	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-8-3.5	N	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-8-4	A	01-428	25 IR 2027	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-8-5	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-8-6	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-8-7	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-9-1	A	01-428	25 IR 2028	*ARR (25 IR 3183)
				25 IR 4107
540 IAC 1-9-2	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-9-2.5	N	01-428	25 IR 2028	*ARR (25 IR 3183)
				25 IR 4108
540 IAC 1-9-2.6	N	01-428	25 IR 2028	*ARR (25 IR 3183)
				25 IR 4108
540 IAC 1-9-2.7	N	01-428	25 IR 2028	*ARR (25 IR 3183)
				25 IR 4108
540 IAC 1-9-3	A	01-428	25 IR 2028	*ARR (25 IR 3183)
				25 IR 4108
540 IAC 1-10-1	A	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4108
540 IAC 1-10-1.5	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-10-1.6	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-10-3	R	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-10-4	N	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109
540 IAC 1-12-2	A	01-428	25 IR 2029	*ARR (25 IR 3183)
				25 IR 4109

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

550 IAC 2-1	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-2	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-3	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-4	RA	01-287	25 IR 188	**25 IR 1731**

550 IAC 2-5	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-6	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-7	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-8	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-9	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 3	RA	01-287	25 IR 188	**25 IR 1731**
TITLE 560 INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD				
560 IAC 2	RA	01-119	24 IR 3222	**25 IR 529**
TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION				
570 IAC 1	RA	01-285	25 IR 519	**25 IR 1731**
TITLE 575 STATE SCHOOL BUS COMMITTEE				
575 IAC 1-1-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4.5	N	01-213	24 IR 3777	**25 IR 1150**
575 IAC 1-1-5	RA	01-165	24 IR 3791	**25 IR 938**
	A	01-213	24 IR 3778	**25 IR 1150**
575 IAC 1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-2.5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-3	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-6	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-8	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-9	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-10	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-11	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-8	N	01-140	24 IR 3180	**25 IR 1149**
TITLE 585 STATE STUDENT ASSISTANCE COMMISSION				
585 IAC 1-9-1	RA	01-147	24 IR 3792	**25 IR 1289**
585 IAC 1-9-2	RA	01-147	24 IR 3794	**25 IR 1291**
585 IAC 1-9-3	RA	01-147	24 IR 3792	**25 IR 1291**
585 IAC 1-9-4	RA	01-147	24 IR 3794	**25 IR 1292**
585 IAC 1-9-5	RA	01-147	24 IR 3795	**25 IR 1293**
585 IAC 1-9-6	RA	01-147	24 IR 3796	**25 IR 1293**
585 IAC 1-9-7	RA	01-147	24 IR 3797	**25 IR 1294**
585 IAC 1-9-8	RA	01-147	24 IR 3797	**25 IR 1295**
585 IAC 1-9-9	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-10	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-11	RA	01-147	24 IR 3798	**25 IR 1296**
585 IAC 1-9-13	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 1-9-14	RA	01-147	24 IR 3799	**25 IR 1296**
585 IAC 1-9-16	RA	01-147	24 IR 3801	
585 IAC 5-1-1	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-2	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-4	RA	01-147	24 IR 3802	
585 IAC 5-3-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-3-7	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-4-1	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-4-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-1	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-2	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-3	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-4	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-5	R	01-147	24 IR 3792	**25 IR 1303**
585 IAC 8-1-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-8	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-9	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-10	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-10.1	RA	01-147	24 IR 3803	
585 IAC 8-1-11	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-12	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-13	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-2-1	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-2	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-3	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-4	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-5	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-6	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-2-7	RA	01-147	24 IR 3805	**25 IR 1302**
585 IAC 8-2-8	RA	01-147	24 IR 3805	**25 IR 1302**
TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD				
590 IAC 1-1-0.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-0.6	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-2.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2	R	01-208	24 IR 4206	**25 IR 1303**
590 IAC 1-2.5-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-2	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-3	RA	01-208	24 IR 4206	**25 IR 1304**
590 IAC 1-3	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 4	N	01-108	24 IR 2826	**25 IR 1151**
TITLE 595 LIBRARY CERTIFICATION BOARD				
595 IAC 1	R	01-108	24 IR 2831	**25 IR 1156**
TITLE 610 DEPARTMENT OF LABOR				
610 IAC 4	RA	01-313	25 IR 188	**25 IR 1305**
610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770)
610 IAC 4-5-11				*ERR (25 IR 106)
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770)
TITLE 615 BOARD OF SAFETY REVIEW				
615 IAC 1-2	RA	01-314	25 IR 188	**25 IR 1305**
615 IAC 1-2-7				*ERR (25 IR 106)
615 IAC 1-2-8				*ERR (25 IR 106)
615 IAC 1-2-11				*ERR (25 IR 106)
TITLE 620 OCCUPATIONAL SAFETY STANDARDS COMMISSION				
620 IAC 1-3	RA	01-315	25 IR 189	**25 IR 1305**
TITLE 631 WORKER'S COMPENSATION BOARD OF INDIANA				
631 IAC 1-1-1	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-1.1	N	01-424	25 IR 2030	
631 IAC 1-1-2	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-3	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-4	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-5	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-6	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-7	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-8	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-9	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-10	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-11	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-12	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-13	RA	01-178	24 IR 3806	**25 IR 1306**

631 IAC 1-1-14	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-15	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-16	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-17	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-18	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-19	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-20	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-21	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-22	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-23	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-24	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-24.1	N	01-424	25 IR 2030	
631 IAC 1-1-25	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-26	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-27	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-28	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-29	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-30	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-31	RA	01-178	24 IR 3807	**25 IR 1306**

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

646 IAC 1	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 2	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 3	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 4	RA	01-11	24 IR 2579	**25 IR 203**

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203**
655 IAC 1-1-1.1	A	01-121	24 IR 3181	*AROC (24 IR 3825) **25 IR 1156** *ERR (25 IR 1645)
655 IAC 1-1-4	A	01-121	24 IR 3182	*AROC (24 IR 3825) **25 IR 1157**
655 IAC 1-1-5.1	A	01-121	24 IR 3182	*AROC (24 IR 3825) **25 IR 1157**
655 IAC 1-1-7	A	01-121	24 IR 3184	*AROC (24 IR 3825) **25 IR 1159**
655 IAC 1-1-13	A	01-121	24 IR 3184	*AROC (24 IR 3825) **25 IR 1160**
655 IAC 1-2.1	RA	02-128	25 IR 3883	
655 IAC 1-2.1-2	A	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1160**
655 IAC 1-2.1-6	A	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.1	N	01-121	24 IR 3185	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.2	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.3	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1161**
655 IAC 1-2.1-6.4	N	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-7	A	01-121	24 IR 3186	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-16	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-17	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-18	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-19.1	N	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1162**
655 IAC 1-2.1-22	A	01-121	24 IR 3187	*AROC (24 IR 3825) **25 IR 1163** *ERR (25 IR 1645)
655 IAC 1-2.1-75	A	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1163**
655 IAC 1-2.1-75.1	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1163**
655 IAC 1-2.1-75.2	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.3	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.4	N	01-121	24 IR 3188	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-75.5	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-76	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-76.1	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1164**
655 IAC 1-2.1-76.2	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-76.3	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-77	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-78	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-79	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-80	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-81	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-82	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-83	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-84	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-85	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-86	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-87	R	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1166**
655 IAC 1-2.1-93	N	01-121	24 IR 3189	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-94	N	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 1-2.1-95	N	01-121	24 IR 3190	*AROC (24 IR 3825) **25 IR 1165**
655 IAC 3	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203**
655 IAC 4	RA	00-302	24 IR 2579	*CPH (24 IR 3098) **25 IR 203**

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 12	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 12-3-2	A	01-250	25 IR 461	*ARR (25 IR 2523) **25 IR 2731**
675 IAC 12-3-3	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2732**
675 IAC 12-3-4	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2732**
675 IAC 12-3-5	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-6	A	01-250	25 IR 462	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-7	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-8	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2733**
675 IAC 12-3-10	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2734**

675 IAC 12-3-12	A	01-250	25 IR 463	*ARR (25 IR 2523) **25 IR 2734**
675 IAC 12-3-13	N	02-90	25 IR 2573	
675 IAC 12-3-14	N	02-90	25 IR 2574	
675 IAC 13-1-8	A	00-261	24 IR 1925	**25 IR 1166**
	A	02-51	25 IR 2561	
675 IAC 13-1-9	A	00-261	24 IR 1929	**25 IR 1170**
675 IAC 13-1-10	A	00-261	24 IR 1932	**25 IR 1172**
	A	02-51	25 IR 2564	
675 IAC 13-1-21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-22	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-23	R	00-290	24 IR 1936	*AWR (25 IR 107)
675 IAC 13-1-25	A	00-261	24 IR 1934	**25 IR 1174**
675 IAC 13-1-27	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-2.3	R	02-115	25 IR 3366	
675 IAC 13-2.3-102	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.3-103	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.4	N	02-115	25 IR 3291	
675 IAC 14-4.2-181.1	N	01-376		††**26 IR 11**
675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187	A	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.4	N	01-376		††**26 IR 13**
675 IAC 14-4.2-191.5	N	01-376		††**26 IR 13**
675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	**26 IR 13**
675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	**26 IR 13**
675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 15-1	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 15-1-22	A	01-250	25 IR 464	*ARR (25 IR 2523) **25 IR 2734**
675 IAC 15-2	RA	01-209	24 IR 3808	**25 IR 1306**
675 IAC 17-1.5	R	01-376	25 IR 1255	**26 IR 19**
675 IAC 17-1.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 18-1.3	R	02-116	25 IR 3381	
675 IAC 18-1.4	N	02-116	25 IR 3366	
675 IAC 19-3	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20-2-17	A	02-52	25 IR 2566	
675 IAC 20-2-20	A	02-52	25 IR 2566	
675 IAC 20-2-24	A	02-52	25 IR 2567	
675 IAC 20-2-26	A	02-52	25 IR 2567	
675 IAC 20-3-5	A	02-52	25 IR 2568	
675 IAC 20-3-6	A	02-52	25 IR 2568	
675 IAC 20-3-7	A	02-52	25 IR 2569	
675 IAC 21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38)
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38)
675 IAC 22-2.2	R	02-117	25 IR 3442	
675 IAC 22-2.2-14	A	02-53	25 IR 2569	
675 IAC 22-2.2-19	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-20	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-104	A	01-19	24 IR 2546	**25 IR 1176**
675 IAC 22-2.2-134.5	N	01-19	24 IR 2546	**25 IR 1177**
675 IAC 22-2.2-145	A	01-19	24 IR 2546	**25 IR 1177**
675 IAC 22-2.2-221.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.2	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-338	A	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-365	A	01-19	24 IR 2547	**25 IR 1178**
675 IAC 22-2.2-365.2	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-369.5	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-373	A	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-412.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-443.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-499	A	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-535	A	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-536	A	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.3	N	02-117	25 IR 3382	
675 IAC 23	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 23-1-63	A	01-250	25 IR 464	*ARR (25 IR 2523) **25 IR 2735**
675 IAC 24	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 25	N	02-118	25 IR 3444	
TITLE 710 SECURITIES DIVISION				
710 IAC 1-8	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-9	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-10	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-11	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-12	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-13	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-14	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-15	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-16	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-17	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-18	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-19	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-20	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-21	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 2	RA	02-4	25 IR 2314	**25 IR 3462**
710 IAC 3	RA	02-4	25 IR 2314	**25 IR 3462**
TITLE 750 DEPARTMENT OF FINANCIAL INSTITUTIONS				
750 IAC 1-1-1	A	02-94		*ER (25 IR 2540)
750 IAC 3	RA	01-343		**25 IR 939**
750 IAC 6	RA	01-343		**25 IR 939**
750 IAC 7	RA	01-343		**25 IR 939**

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-1	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-3	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-5	RA	01-130	24 IR 3224	**25 IR 530**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-5.1	N	01-181	25 IR 465	*AWR (25 IR 815)
	N	01-399	25 IR 2575	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 19
760 IAC 1-6.2	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-7	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-8	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-14	RA	01-130	24 IR 3224	**25 IR 531**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-15.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-16.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-21	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-23	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-24	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-27	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-31	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-32	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-33	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-34	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-35	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-36	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-37	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-38.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-39	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-40	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-41	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-46	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-48	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-49	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-50-2	A	02-23	25 IR 2582	
760 IAC 1-50-3	A	02-23	25 IR 2582	
760 IAC 1-50-4	A	02-23	25 IR 2583	
760 IAC 1-50-5	A	02-23	25 IR 2583	
760 IAC 1-50-7	A	02-23	25 IR 2584	
760 IAC 1-50-13	A	02-23	25 IR 2584	
760 IAC 1-50-13.5	A	02-23	25 IR 2585	
760 IAC 1-51	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-52	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-53	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-54	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-55	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-56	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-59-1	A	02-124	26 IR 170	
760 IAC 1-59-2	A	02-124	26 IR 170	
760 IAC 1-59-3	A	02-124	26 IR 171	
760 IAC 1-59-4	A	02-124	26 IR 171	
760 IAC 1-59-5	A	02-124	26 IR 171	
760 IAC 1-59-6	A	02-124	26 IR 172	
760 IAC 1-59-7	A	02-124	26 IR 172	
760 IAC 1-59-8	A	02-124	26 IR 173	
760 IAC 1-59-9	A	02-124	26 IR 174	
760 IAC 1-59-10	A	02-124	26 IR 174	
760 IAC 1-59-11	A	02-124	26 IR 174	
760 IAC 1-59-12	A	02-124	26 IR 175	
760 IAC 1-59-13	R	02-124	26 IR 177	
760 IAC 1-59-14	A	02-124	26 IR 175	
760 IAC 1-67	N	01-94	24 IR 2832	**25 IR 85**
760 IAC 2-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-8	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10-1	A	01-93	24 IR 2832	**25 IR 382**
760 IAC 2-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-16	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-8	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-16	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-20	RA	01-130	24 IR 3224	**25 IR 531**

TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION

762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114)
				26 IR 27

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

804 IAC 1.1-1-1	A	01-57	24 IR 4182	*CPH (25 IR 404)
				25 IR 1903
804 IAC 1.1-2-2	A	01-57	24 IR 4183	*CPH (25 IR 404)
				25 IR 1904
804 IAC 1.1-2-4.1	R	01-103	24 IR 4184	*CPH (25 IR 404)
				25 IR 1905
804 IAC 1.1-3-1	A	02-20	25 IR 3446	

TITLE 808 STATE BOXING COMMISSION

808 IAC 1-4-8	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-1-9	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-5-1	A	00-256	24 IR 3200	**25 IR 383**
808 IAC 2-6-1	A	02-120	25 IR 4210	
808 IAC 2-33-2	N	00-256	24 IR 3200	**25 IR 383**
808 IAC 4	R	01-104	24 IR 3201	**25 IR 383**

TITLE 812 INDIANA AUCTIONEER COMMISSION

812 IAC 2	RA	02-84	25 IR 2853	**25 IR 4221**
812 IAC 3	RA	02-84	25 IR 2853	**25 IR 4221**

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-4-5	A	01-345	25 IR 1720	**25 IR 3178**
820 IAC 4-4-14	A	01-345	25 IR 1721	**25 IR 3179**
820 IAC 6	RA	02-92	25 IR 2854	**25 IR 4221**
820 IAC 6-2-1	A	01-345	25 IR 1722	**25 IR 3180**

TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION

825 IAC 1	RA	02-176	25 IR 4220	
825 IAC 1-1-5	R	02-179	25 IR 4211	
825 IAC 1-5-1	R	02-179	25 IR 4211	
825 IAC 1-5-2	R	02-179	25 IR 4211	

TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-1	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-2	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-3	N	01-197	24 IR 4185	**25 IR 1180**
	A	02-113	25 IR 3452	
828 IAC 0.5-2-4	N	01-197	24 IR 4185	**25 IR 1181**
	A	02-113	25 IR 3453	
828 IAC 0.5-2-5	N	01-307	25 IR 1723	**25 IR 2736**
828 IAC 0.5-2-6	N	02-112	25 IR 3447	
828 IAC 1-1-2	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-3	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-6	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-8	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-9	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-10	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-12	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-18	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2241**
828 IAC 1-1-21	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-1-23	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-2-1	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-2	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-3	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-6	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-8	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-9	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-10	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-12	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-14	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
828 IAC 1-3-1	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
	R	02-113	25 IR 3452	
828 IAC 1-3-1.1	N	02-113	25 IR 3450	
828 IAC 1-3-1.5	N	02-113	25 IR 3451	
828 IAC 1-3-2	A	02-113	25 IR 3452	
828 IAC 1-3-3	A	02-113	25 IR 3452	
828 IAC 1-3-4	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-3-5	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-5-1	A	02-112	25 IR 3448	
828 IAC 1-5-1.5	N	02-112	25 IR 3448	
828 IAC 1-5-2	A	02-112	25 IR 3448	
828 IAC 1-5-2.5	N	02-112	25 IR 3449	
828 IAC 1-5-4	RA	01-193	24 IR 4207	**25 IR 1306**
828 IAC 1-5-5	RA	01-193	24 IR 4207	**25 IR 1307**
828 IAC 1-6-1	A	02-112	25 IR 3449	
828 IAC 1-7-1	A	02-114	25 IR 3453	
828 IAC 1-7-2	N	02-114	25 IR 3453	
828 IAC 4	N	01-307	25 IR 1723	**25 IR 2736**

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 3-2-2	RA	01-56	24 IR 3225	**25 IR 532**

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

836 IAC 1	RA	01-40	24 IR 2580	
836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-2-1	A	01-297	25 IR 488	**25 IR 2506**
	A	02-91	25 IR 2813	*CPH (25 IR 3807)
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-3-5	A	01-297	25 IR 489	**25 IR 2507**
	A	02-91	25 IR 2818	*CPH (25 IR 3807)
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-11-1	A	01-297	25 IR 490	**25 IR 2508**
	A	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-11-2	A	01-297	25 IR 491	**25 IR 2509**
	A	02-91	25 IR 2820	*CPH (25 IR 3807)
836 IAC 1-11-3	A	01-297	25 IR 492	**25 IR 2510**
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 2-2-1	A	01-297	25 IR 494	**25 IR 2512**
	A	02-91	25 IR 2824	*CPH (25 IR 3807)
836 IAC 2-4.1-2	A	01-297	25 IR 496	**25 IR 2514**
836 IAC 2-7.1-1	A	01-297	25 IR 497	**25 IR 2515**
	A	02-91	25 IR 2826	*CPH (25 IR 3807)
836 IAC 2-7.2	N	02-91	25 IR 2828	*CPH (25 IR 3807)
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807)
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-1-1	A	01-296	25 IR 472	**25 IR 2490**
836 IAC 3-2-1	A	01-296	25 IR 473	**25 IR 2491**
836 IAC 3-2-2	A	01-296	25 IR 475	**25 IR 2492**
836 IAC 3-2-3	A	01-296	25 IR 475	**25 IR 2493**
836 IAC 3-2-4	A	01-296	25 IR 476	**25 IR 2494**
	A	02-91	25 IR 2834	*CPH (25 IR 3807)
836 IAC 3-2-5	A	01-296	25 IR 478	**25 IR 2496**
	A	02-91	25 IR 2835	*CPH (25 IR 3807)
836 IAC 3-2-6	A	01-296	25 IR 479	**25 IR 2497**
836 IAC 3-2-7	A	01-296	25 IR 480	**25 IR 2498**

836 IAC 3-2-8	N	01-296	25 IR 480	**25 IR 2498**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-3-1	A	01-296	25 IR 480	**25 IR 2498**
836 IAC 3-3-2	A	01-296	25 IR 482	**25 IR 2499**
836 IAC 3-3-3	A	01-296	25 IR 482	**25 IR 2500**
836 IAC 3-3-4	A	01-296	25 IR 483	**25 IR 2501**
	A	02-91	25 IR 2836	*CPH (25 IR 3807)
836 IAC 3-3-5	A	01-296	25 IR 485	**25 IR 2503**
	A	02-91	25 IR 2837	*CPH (25 IR 3807)
836 IAC 3-3-6	A	01-296	25 IR 485	**25 IR 2503**
836 IAC 3-3-7	A	01-296	25 IR 486	**25 IR 2504**
836 IAC 3-3-8	N	01-296	25 IR 487	**25 IR 2505**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-5-1	A	01-296	25 IR 487	**25 IR 2505**
836 IAC 3-6-1	R	01-296	25 IR 487	**25 IR 2505**
836 IAC 4	RA	01-40	24 IR 2580	
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807)
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807)
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807)
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-6.1	N	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807)
836 IAC 4-7-3.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-7.1	N	02-91	25 IR 2844	*CPH (25 IR 3807)
836 IAC 4-9-2.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807)
836 IAC 4-10	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-1-1	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.2	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.3	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.5	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-1-3.6	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.8	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-4	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-2-1	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2.1	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-2-3	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-2-4	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-2-5	RA	01-157	24 IR 4208	**25 IR 1307**
839 IAC 1-3-1	RA	01-158	25 IR 190	**25 IR 1309**
839 IAC 1-3-2	RA	01-158	25 IR 191	
839 IAC 1-3-2.5	RA	01-158	25 IR 191	**25 IR 1309**
839 IAC 1-3-3.5	RA	01-158	25 IR 192	**25 IR 1309**
839 IAC 1-3-4	RA	01-158	25 IR 192	**25 IR 1310**
839 IAC 1-3-4.5	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-3-5	N	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-4-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-4-5	RA	01-158	25 IR 193	
839 IAC 1-4-6	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-4-7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-1	RA	01-158	25 IR 193	**25 IR 1311**
839 IAC 1-5-2	RA	01-158	25 IR 195	**25 IR 1313**
839 IAC 1-5-3	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-5-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-5	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-6	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-6-1	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-6-2	RA	01-158	25 IR 197	**25 IR 1314**
839 IAC 1-6-3	RA	01-158	25 IR 198	**25 IR 1316**
839 IAC 1-6-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-6-5	RA	01-158	25 IR 199	**25 IR 1316**
839 IAC 1-6-6	R	01-160	24 IR 4186	**25 IR 1634**

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-1	R	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-1-2	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-3	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-4	RA	01-242	25 IR 521	**25 IR 2856**
840 IAC 1-1-5	RA	01-242	25 IR 521	**25 IR 2856**
840 IAC 1-1-6	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-11	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-12	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-13	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-14	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-15	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-16	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-17	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-1-18	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-1	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-2	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-4	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-5	RA	01-242	25 IR 525	**25 IR 2861**
840 IAC 1-2-6	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-2-7	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-3-1	R	01-244	25 IR 500	**25 IR 1634**
840 IAC 1-3-2	N	01-244	25 IR 500	**25 IR 1634**

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	
844 IAC 2.2-2-2	A	02-180	26 IR 178	
844 IAC 2.2-2-5	A	02-180	26 IR 179	
844 IAC 2.2-2-8	A	02-180	26 IR 179	
844 IAC 4-1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-2-1	R	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-2-2	N	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-4.1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-2	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-3.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-4.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-6	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-7	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-8	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**

844 IAC 4-4.1-9	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-4.1-10	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-4.1-11	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-4.5	N	01-228	24 IR 4187	*CPH (25 IR 405)
				*SPE
	N	02-12	25 IR 2302	*CPH (25 IR 2746)
				26 IR 28
844 IAC 4-5-1	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-6-1	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-2	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-6-2.1	N	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	N	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-6-3	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-4	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-5	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-6-6	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-7	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-8	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 4-6-9	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-10	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-7-1	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-2	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-4	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-5	R	01-228	24 IR 4192	*CPH (25 IR 405)
				*SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				26 IR 34
844 IAC 5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1-4	A	01-431	25 IR 3454	
844 IAC 6-2-1	R	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-2-2	N	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-3-5	A	01-432	25 IR 3455	
844 IAC 6-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-6	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 9-1-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-5	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-2-6	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-1	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-3-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-1	RA	01-120	24 IR 3810	**25 IR 1318**
844 IAC 9-4-2	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-4-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-5	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-5-1	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-5-2	R	01-120	24 IR 3811	**25 IR 1320**
844 IAC 9-6-1	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-6-3	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 10-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-2-1	R	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-2-2	N	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 11-1-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-2	RA	01-131	24 IR 3226	**25 IR 1320**
844 IAC 11-1-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-5	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-6	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-2-1	R	01-248	25 IR 179	**25 IR 1636**
844 IAC 11-2-1.1	N	01-248	25 IR 179	**25 IR 1635**
844 IAC 11-3-2	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-3-4	RA	01-131	24 IR 3227	**25 IR 1321**
844 IAC 11-3-4.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-4-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-2	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-5	RA	01-131	24 IR 3227	**25 IR 1322**
844 IAC 11-4-6	RA	01-131	24 IR 3228	**25 IR 1322**
844 IAC 11-4-7	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-8	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-4-9	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-5-1	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-3	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-4	RA	01-131	24 IR 3229	**25 IR 1323**
844 IAC 11-5-5	RA	01-131	24 IR 3229	**25 IR 1324**
844 IAC 12-2-1	R	01-247	25 IR 502	**25 IR 2248**
844 IAC 12-2-2	N	01-247	25 IR 502	**25 IR 2248**
844 IAC 13	N	01-47	24 IR 2554	**25 IR 803**

TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-5-2	R	01-363	25 IR 3456	
845 IAC 1-5-2.1	N	01-363	25 IR 3455	
845 IAC 1-6-8	R	01-229	24 IR 4193	*ARR (25 IR 1185)
845 IAC 1-6-9	N	01-229	24 IR 4193	*ARR (25 IR 1185)

TITLE 846 BOARD OF CHIROPRACTIC EXAMINERS

846 IAC 1-4-7	RA	01-221	24 IR 4209	**25 IR 1325**

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-5	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-6	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-7	RA	01-127	24 IR 3232	**25 IR 1327**
848 IAC 1-1-8	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-10	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 1-1-11	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-13	RA	01-127	24 IR 3233	**25 IR 1328**

848 IAC 1-1-14	RA	01-105	24 IR 2893	
848 IAC 1-1-15	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-3	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-2	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 3-2-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-5	RA	01-127	24 IR 3233	**25 IR 1329**
848 IAC 3-2-6	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-7	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-8	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-3	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-5	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-6	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 5-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 5-2-1	RA	01-127	24 IR 3234	**25 IR 1329**

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	
852 IAC 1-10-1	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-10-2	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-13-1	A	02-132	25 IR 3869	
852 IAC 1-13-2	A	02-132	25 IR 3870	
852 IAC 1-17	N	02-133	25 IR 3870	

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-1	RA	01-150	24 IR 4210	**25 IR 1330**
				*ERR (25 IR 1645)
856 IAC 1-2-1	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-2	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-4	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-6	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-7	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-10	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-3.1-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-12	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-13	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-4-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-2	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-4	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-5-1	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-7-1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-2	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-3	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-4	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-5	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-7-6	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-7-7	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-12	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-13-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-13-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-15-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-20-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-21-1	RA	01-150	24 IR 4214	**25 IR 1334**
856 IAC 1-23-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-26-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-27-1	RA	01-148	24 IR 3812	*AWR (25 IR 1186)
	A	01-434	25 IR 2042	**25 IR 2739**
856 IAC 1-28	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	R	01-298	25 IR 509	*AROC (25 IR 1734)
				25 IR 1643
856 IAC 1-28.1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	N	01-298	25 IR 502	*AROC (25 IR 1734)
				25 IR 1636
856 IAC 1-29-1	RA	01-150	24 IR 4216	**25 IR 1337**
856 IAC 1-29-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-7	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-29-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-5	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-7	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-8	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-9	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-10	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-12	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-13	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-14	RA	01-150	24 IR 4217	**25 IR 1338**
856 IAC 1-30-15	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-30-16	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-17	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-18	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-31	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-32-1	RA	01-150	24 IR 4218	**25 IR 1339**
856 IAC 1-32-2	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-3	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-4	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-33	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-1	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-2	RA	01-150	24 IR 4219	**25 IR 1340**
856 IAC 1-34-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-5	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35-1	A	02-172	25 IR 4211	
856 IAC 1-35-4	A	02-172	25 IR 4212	
856 IAC 1-35-6	R	02-172	25 IR 4212	
856 IAC 1-36-1	RA	01-150	24 IR 4211	**25 IR 1330**

856 IAC 1-36-2	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-5	RA	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-36-6	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-7	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-8	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-9	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 2-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-9	RA	01-149	24 IR 3813	**25 IR 940**
856 IAC 2-3-10	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-11	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-12	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-13	RA	01-151	24 IR 4222	**25 IR 1342**
856 IAC 2-3-14	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-15	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-19	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-20	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-21	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-22	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-23	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-24	RA	01-151	24 IR 4222	**25 IR 1343**
856 IAC 2-3-25	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-26	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-27	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-28	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-29	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-30	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-31	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-32	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-33	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-34	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-35	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-2	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-9	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-10	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-11	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-6-12	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-13	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-14	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-15	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-7	N	01-306	25 IR 3871	
856 IAC 3-2-2	RA	01-153	24 IR 3813	**25 IR 941**

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-4-1	RA	02-78	25 IR 3883	
857 IAC 2-3-16	A	02-123	25 IR 3873	

TITLE 858 CONTROLLED SUBSTANCES ADVISORY COMMITTEE

858 IAC 2	RA	01-63	24 IR 4224	**25 IR 1344**

TITLE 860 INDIANA PLUMBING COMMISSION

860 IAC 1-1-2.1	A	01-425	25 IR 2309	*ARR (25 IR 2523)
			25 IR 2585	**25 IR 4109**
860 IAC 1-1-8	A	01-425	25 IR 2586	**25 IR 4110**

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	
864 IAC 1.1-2-4	A	01-405	25 IR 2849	
864 IAC 1.1-12-1	A	01-405	25 IR 2850	

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	
865 IAC 1-11-1	A	01-426	25 IR 2043	*CPH (25 IR 2543)
				25 IR 4110
865 IAC 1-12-28	A	02-56	25 IR 3456	
865 IAC 1-13-5	A	01-426	25 IR 2044	*CPH (25 IR 2543)
				25 IR 4111

TITLE 868 STATE PSYCHOLOGY BOARD

868 IAC 1.1-3-1	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-5-4	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-5-7	RA	01-154	24 IR 3814	*CPH (25 IR 124)
				25 IR 1344
868 IAC 1.1-12-1	R	01-210	24 IR 4194	**25 IR 1181**
868 IAC 1.1-12-1.5	N	01-210	24 IR 4193	**25 IR 1181**
868 IAC 1.1-15-11	A	01-179	24 IR 3779	**25 IR 812**

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-8	A	01-310	25 IR 891	*ARR (25 IR 2256)
				25 IR 2518
872 IAC 1-1-8.1	R	01-310	25 IR 893	*ARR (25 IR 2256)
				25 IR 2520
872 IAC 1-1-8.3	A	01-310	25 IR 892	*ARR (25 IR 2256)
				25 IR 2519
872 IAC 1-1-8.4	A	01-310	25 IR 892	*ARR (25 IR 2256)
				25 IR 2519
872 IAC 1-1-10	A	01-310	25 IR 893	*ARR (25 IR 2256)
				25 IR 2520

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-1-3	A	00-260	24 IR 2848	**25 IR 101**
876 IAC 1-1-23	A	00-260	24 IR 2849	**25 IR 102**
	A	01-427	25 IR 3874	
876 IAC 1-1-24	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-1-26	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-4-2	A	01-427	25 IR 3874	
876 IAC 2-17-3	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 3-2-4	A	02-148	25 IR 4213	
876 IAC 3-2-5	A	02-148	25 IR 4213	
876 IAC 3-2-7	A	02-148	25 IR 4213	
876 IAC 3-3-21	A	01-346	25 IR 2310	**25 IR 4111**
876 IAC 3-3-22	A	02-148	25 IR 4214	
876 IAC 3-6-2	A	01-403	25 IR 1726	**25 IR 3181**
876 IAC 3-6-3	A	01-403	25 IR 1727	**25 IR 3181**
876 IAC 3-6-9	A	02-148	25 IR 4214	
876 IAC 4-1-3	A	00-260	24 IR 2850	**25 IR 103**
	A	01-427	25 IR 3876	
876 IAC 4-2-1	A	00-260	24 IR 2850	**25 IR 103**
876 IAC 4-2-2	A	01-369	26 IR 180	
876 IAC 4-2-3	A	01-369	26 IR 180	
876 IAC 4-2-4	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-5	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-9	A	00-260	24 IR 2851	**25 IR 104**
	A	01-369	26 IR 180	

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

880 IAC 1-1-1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-5	RA	01-222	24 IR 4224	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-6	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-7	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

888 IAC 1.1-3-2	RA	01-223	24 IR 4225	**25 IR 1346**
888 IAC 1.1-3-3	RA	01-321	25 IR 201	**25 IR 1733**
888 IAC 1.1-6-1	A	02-134	25 IR 3877	
888 IAC 1.1-6-3	A	02-135	25 IR 3878	
888 IAC 1.1-11	N	02-136	25 IR 3879	

TITLE 896 BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS

896 IAC 1-3-2	RA	01-224	24 IR 4226	**25 IR 1346**

TITLE 898 INDIANA ATHLETIC TRAINERS BOARD

898 IAC 1-1-1.5	N	01-46	24 IR 2562	*CPH (24 IR 2724) **25 IR 104**
898 IAC 1-1-2.5	RA	01-44	24 IR 2588	*CPH (24 IR 2724) **25 IR 204**
898 IAC 1-1-3.5	RA	01-44	24 IR 2589	*CPH (24 IR 2724) **25 IR 204**
898 IAC 1-2-6	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-2-7	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-3-1	A	01-199	24 IR 4195	**25 IR 1347**
898 IAC 1-5-5	R	01-46	24 IR 2562	*CPH (24 IR 2724) **25 IR 105**

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

905 IAC 1-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-5.2-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-6	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-7	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-8	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-9	RA	01-230	24 IR 3816	**25 IR 1348**
905 IAC 1-5.2-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-11	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-12	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-15	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-16	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-17	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-7.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-8-1	RA	01-230	24 IR 3817	**25 IR 1349**
905 IAC 1-8-2	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-3	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-4	RA	01-230	24 IR 3818	**25 IR 1350**
905 IAC 1-8-5	RA	01-230	24 IR 3818	**25 IR 1350**
905 IAC 1-8-6	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-8-7	RA	01-230		*ERR (25 IR 1906)
905 IAC 1-9-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-11.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-11.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-16.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-16.1-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-17-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-18	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-20	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-21	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-23-1	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-25	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-26	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-2	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-27-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-29-1	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-2	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-3	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-4	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-5	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29-6	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-7	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-8	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29.5	N	01-13	25 IR 509	
905 IAC 1-30	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-31	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-32.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-33.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-34-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-34-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-35	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-36	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-37	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-38	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-45	N	01-255	25 IR 511	
905 IAC 1-46	N	01-256	25 IR 511	
905 IAC 1-48	N	01-258	25 IR 512	
905 IAC 1-49	N	01-259	25 IR 513	
905 IAC 1-50	N	01-260	25 IR 513	
905 IAC 1-51	N	01-261	25 IR 514	
905 IAC 1-52	N	01-262	25 IR 514	**25 IR 4112**

TITLE 910 CIVIL RIGHTS COMMISSION

910 IAC 1	RA	01-138	24 IR 3821	**25 IR 942**
910 IAC 2	RA	01-138	24 IR 3821	**25 IR 942**

TITLE 920 INDIANA WAR MEMORIALS COMMISSION

920 IAC 1	RA	01-316	25 IR 201	**25 IR 1352**

TITLE 925 MERIDIAN STREET PRESERVATION COMMISSION

925 IAC 1	R	01-70	24 IR 3784 25 IR 1261	*ARR (25 IR 1185)
925 IAC 2	N	01-70	24 IR 3779 25 IR 1256	*ARR (25 IR 1185) **25 IR 2248**

NONCODE RULES

Animal Heath, Indiana State Board of
- N 02-34 *ETR (25 IR 1919)
- N 02-125 *ETR (25 IR 2743)
- N 02-216 *ETR (25 IR 4126)

Budget Agency
- N 02-192 *ETR (25 IR 3772)

Education Savings Authority, Indiana
- N 02-256 *ETR (26 IR 59)

Family and Social Services, Office of the Secretary of
- N 01-351 *ETR (25 IR 389)
- N 01-352 *ETR (25 IR 398)
- N 01-353 *ETR (25 IR 399)
- N 01-354 *ETR (25 IR 399)
- N 01-355 *ETR (25 IR 400)
- N 01-378 *ETR (25 IR 828)
- N 01-396 *ETR (25 IR 829)
- N 01-440 *ETR (25 IR 1653)
- N 01-441 *ETR (25 IR 1654)
- N 01-442 *ETR (25 IR 1654)
- N 01-443 *ETR (25 IR 1663)
- N 02-1 *ETR (25 IR 1664)
- N 02-195 *ETR (25 IR 3780)
- N 02-196 *ETR (25 IR 3787)
- N 02-197 *ETR (25 IR 3792)
- N 02-198 *ETR (25 IR 3793)
- N 02-199 *ETR (25 IR 3803)

Health, Indiana State Department of
- N 01-409 *ETR (25 IR 1192)
- N 02-28 *ETR (25 IR 1920)
- N 02-29 *ETR (25 IR 1922)

Local Government Finance, Department of
- N 02-229 *ETR (25 IR 4115)
- N 02-230 *ETR (25 IR 4117)

Lottery Commission, State
- N 01-324 *ETR (25 IR 108)
- N 01-326 *ETR (25 IR 109)
- N 01-327 *ETR (25 IR 112)
- N 01-328 *ETR (25 IR 113)
- N 01-329 *ETR (25 IR 115)
- N 01-330 *ETR (25 IR 116)
- N 01-381 *ETR (25 IR 816)
- N 01-382 *ETR (25 IR 818)
- N 01-383 *ETR (25 IR 819)
- N 01-384 *ETR (25 IR 821)
- N 01-385 *ETR (25 IR 822)
- N 01-386 *ETR (25 IR 823)
- N 01-387 *ETR (25 IR 824)
- N 01-388 *ETR (25 IR 825)
- N 01-389 *ETR (25 IR 827)
- N 01-416 *ETR (25 IR 1187)
- N 01-417 *ETR (25 IR 1187)
- N 01-435 *ETR (25 IR 1647)
- N 01-436 *ETR (25 IR 1648)
- N 01-437 *ETR (25 IR 1650)
- N 01-438 *ETR (25 IR 1651)
- N 01-439 *ETR (25 IR 1652)
- N 02-25 *ETR (25 IR 1909)
- N 02-30 *ETR (25 IR 1912)
- N 02-31 *ETR (25 IR 1913)
- N 02-32 *ETR (25 IR 1915)
- N 02-33 *ETR (25 IR 1917)
- N 02-36 *ETR (25 IR 2258)
- N 02-37 *ETR (25 IR 2259)
- N 02-38 *ETR (25 IR 2261)
- N 02-59 *ETR (25 IR 2262)
- N 02-60 *ETR (25 IR 2263)
- N 02-61 *ETR (25 IR 2265)
- N 02-62 *ETR (25 IR 2265)
- N 02-63 *ETR (25 IR 2266)
- N 02-64 *ETR (25 IR 2268)
- N 02-66 *ETR (25 IR 2269)
- N 02-70 *ETR (25 IR 2274)
- N 02-71 *ETR (25 IR 2275)
- N 02-98 *ETR (25 IR 2525)
- N 02-99 *ETR (25 IR 2526)
- N 02-100 *ETR (25 IR 2527)
- N 02-101 *ETR (25 IR 2530)
- N 02-153 *ETR (25 IR 3185)
- N 02-154 *ETR (25 IR 3187)
- N 02-155 *ETR (25 IR 3189)
- N 02-156 *ETR (25 IR 3190)
- N 02-157 *ETR (25 IR 3192)
- N 02-164 *ETR (25 IR 3194)
- N 02-165 *ETR (25 IR 3197)
- N 02-166 *ETR (25 IR 3198)
- N 02-167 *ETR (25 IR 3200)
- N 02-168 *ETR (25 IR 3201)
- N 02-169 *ETR (25 IR 3202)
- N 02-220 *ETR (25 IR 4117)
- N 02-221 *ETR (25 IR 4118)
- N 02-223 *ETR (25 IR 4119)
- N 02-224 *ETR (25 IR 4119)
- N 02-225 *ETR (25 IR 4120)
- N 02-226 *ETR (25 IR 4121)
- N 02-227 *ETR (25 IR 4123)
- N 02-257 *ETR (26 IR 54)

Natural Resources Commission
- N 01-323 *ETR (25 IR 123)
- N 01-349 *ETR (25 IR 386)
- N 01-350 *ETR (25 IR 386)
- N 01-415 *ETR (25 IR 1191)
- N 02-35 *ETR (25 IR 1919)
- N 02-93 *ETR (25 IR 2539)
- N 02-95 *ETR (25 IR 2540)
- N 02-129 *ETR (25 IR 2743)
- N 02-130 *ETR (25 IR 2743)
- N 02-158 *ETR (25 IR 3206)
- N 02-159 *ETR (25 IR 3206)
- N 02-190 *ETR (25 IR 3773)
- N 02-191 *ETR (25 IR 3774)
- N 02-194 *ETR (25 IR 3775)
- N 02-205 *ETR (25 IR 3778)
- N 02-217 *ETR (25 IR 4126)

Water Pollution Control Board
- N 02-193 *ETR (25 IR 3778)

*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

Index

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

*The index is cumulative for all proposed and final rulemaking actions published after September 1, 2001. Final rules published before that date have been incorporated into the 2001 edition of the Indiana Administrative Code and the 2002 Supplement. Indiana Register citations in roman type are to the volume and page on which the proposed version of the rule appears. Entries in **bold** type indicate the page on which a final rule filed with the Secretary of State appears.

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

The **Indiana Register** is an official source of the text of proposed and final rules and notices of rulemaking activity. For keeping up to date on rules and participating in the rulemaking process, the **Indiana Register** is a necessary tool. If you would like further information, call the Legislative Services Agency at (317) 232-9557.

ORDER FORM

☐ Change of address.

☐ Enclosed is my check for $60 as payment in advance for the **CD-ROM version of the Indiana Register** (October 2001 through September 2002, **Volume 26**).

☐ Enclosed is my check for $246 ($228 plus $18 postage) as payment in advance for the 2001 edition of the **Indiana Administrative Code**.

☐ The paper edition of the **2002 Supplement to the Indiana Administrative Code** is no longer available.

☐ Enclosed is my check for $26.26 ($25 plus $1.26 postage) as payment in advance for the **CD-ROM version of the 2002 Indiana Administrative Code** (not compatible with Macintosh computers).

Please make checks payable to:
Legislative Services Agency

_____
name or firm

_____
address

_____
city *state* *zip code*

(_____) _____
telephone

Mail to: **LEGISLATIVE SERVICES AGENCY**
ATTN: LIC
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

Indiana Register subscriptions $60
Indiana Administrative Code orders are being accepted.

The **Indiana Administrative Code** and the **Indiana Register** are available on the Internet at:
http:/www.in.gov/legislative/

Indiana Register

Postmaster: Send address changes to:
Indiana Register
Legislative Services Agency
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

PERIODICALS
Postage Paid at
Indianapolis, Indiana